Y4.P96/10:S HRG.104-246/PT2

S. HRG. 104–246, PART II

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

WITHDRAWN

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

S. 440

A BILL TO AMEND TITLE 23, UNITED STATES CODE, TO PROVIDE FOR THE DESIGNATION OF THE NATIONAL HIGHWAY SYSTEM, AND FOR OTHER PURPOSES

MARCH 30 AND APRIL 6, 1995

Printed for the use of the Committee on Environment and Public Works

RECEIVED
JUL 3 1 2003
BOSTON PUBLIC LIBRARY
GOVERNMENT DOCUMENTS DEPARTMENT

S. HRG. 104–246, PART II

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

S. 440

A BILL TO AMEND TITLE 23, UNITED STATES CODE, TO PROVIDE FOR THE DESIGNATION OF THE NATIONAL HIGHWAY SYSTEM, AND FOR OTHER PURPOSES

MARCH 30 AND APRIL 6, 1995

Printed for the use of the Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
92–534cc WASHINGTON : 1996

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-052436-9

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

JOHN H. CHAFEE, Rhode Island, *Chairman*

JOHN W. WARNER, Virginia
ROBERT SMITH, New Hampshire
LAUCH FAIRCLOTH, North Carolina
DIRK KEMPTHORNE, Idaho
JAMES M. INHOFE, Oklahoma
CRAIG THOMAS, Wyoming
MITCH McCONNELL, Kentucky
CHRISTOPHER S. BOND, Missouri

MAX BAUCUS, Montana
DANIEL PATRICK MOYNIHAN, New York
FRANK R. LAUTENBERG, New Jersey
HARRY REID, Nevada
BOB GRAHAM, Florida
JOSEPH I. LIEBERMAN, Connecticut
BARBARA BOXER, California

STEVEN J. SHIMBERG, *Staff Director*
J. THOMAS SLITER, *Minority Staff Director*

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

JOHN W. WARNER, Virginia, *Chairman*

ROBERT SMITH, New Hampshire
DIRK KEMPTHORNE, Idaho
CHRISTOPHER S. BOND, Missouri
LAUCH FAIRCLOTH, North Carolina

MAX BAUCUS, Montana
DANIEL PATRICK MOYNIHAN, New York
HARRY REID, Nevada
BOB GRAHAM, Florida

CONTENTS

Page

MARCH 30, 1995
ISTEA REASSESSMENT: CRUMB RUBBER AND HIGHWAY SAFETY

OPENING STATEMENTS

Baucus, Hon. Max, U.S. Senator from the State of Montana 6
Bond, Hon. Christopher S., U.S. Senator from the State of Missouri 7
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island 3
Prepared statement 4
Graham, Hon. Bob, U.S. Senator from the State of Florida 8
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey 11
Warner, Hon. John W., U.S. Senator from the Commonwealth of Virginia 1
Prepared statement 2

WITNESSES

Billings, Jed S., president, FNF Construction, Inc 48
Prepared statement 86
Campbell, Hon. Ben Nighthorse, U.S. Senator from the State of Colorado 14
Prepared statement 61
Carlile, Frank, Assistant Secretary for Transportation Policy, Florida Department of Transportation 25
Prepared statement 71
Cullerton, Hon. John, Illinois State Senator 41
Prepared statement 78
Enos, Hon. William, Rhode Island State Senator 35
Prepared statement 72
Moore, Marshall, Director, North Dakota Department of Transportation 22
Prepared statement 62
Nickles, Hon. Don, U.S. Senator from the State of Oklahoma 16
Article, Evansville (IN) Press 60
Letter concerning national speed limit, by Oklahoma Secretary of Transportation McCaleb 59
Prepared statement 56
Packard, Hon. Sherman A., New Hampshire State Representative 33
Prepared statement 75
Resolution by the American Legislative Exchange Council 75
Rosenberg, Mark L., M.D., M.P.P., Director, National Center for Injury Prevention and Control 38
Prepared statement 79
Sauer, Gary B., National Asphalt Pavement Association 46
Prepared statement 84
Snowe, Hon. Olympia J., U.S. Senator from the State of Maine 9
Prepared statement 55

ADDITIONAL MATERIAL

Resolution by the American Association of State Highway Transportation Organizations (AASHTO) 57
Statement by:
Matheny, Edward J., president, Rhode Island Motorcycle Association 90
Siegel, John H., M.D., Director, New Jersey Trauma Center 98

Page

APRIL 6, 1995

WOODROW WILSON BRIDGE MAINTENANCE AND INTERSTATE HIGHWAY FINANCING

OPENING STATEMENTS

Baucus, Hon. Max, U.S. Senator from the State of Montana 139
Faircloth, Hon. Lauch, U.S. Senator from the State of North Carolina 139
Warner, Hon. John W., U.S. Senator from the Commonwealth of Virginia 137

WITNESSES

Flanagan, Daniel V., chairman, Commission to Promote Investment in America's Infrastructure 151
Prepared statement 211
Garvey, Jane, Deputy Administrator, Federal Highway Administration, Department of Transportation 140
Prepared statement 170
Herrity, John F., chairman, Interstate Transportation Study Commission 157
Prepared statement 228
Stanley, Ralph, senior vice president, United Infrastructure 154
Prepared statement 231
Stern, Ann, chairman and chief executive officer, Financial Guaranty Insurance Corporation 160
Prepared statement 225

ADDITIONAL MATERIAL

Letter concerning Federal audit procedures in contracting, by Pennsylvania State officials 235
Report by Federal Highway Administration, "Rebuilding America: Partnership for Investment" 175
Statement by:
American Society of Civil Engineers 236
Boatner, James G., Robinson Terminal Warehouse Corporation 233
Grams, Hon. Rod, U.S. Senator from the State of Minnesota 167
Maryland Department of Transportation 239
Riehle, James F., mayor, Lafayette, IN 242

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

THURSDAY, MARCH 30, 1995

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

ISTEA REASSESSMENT: CRUMB RUBBER AND HIGHWAY SAFETY

The committee met, pursuant to notice, at 9:35 a.m. in room 406, Dirksen Senate Office Building, Honorable John W. Warner (chairman of the subcommittee) presiding.

Present: Senators Warner, Bond, Graham, Smith, Baucus, and Chafee [ex officio].

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Good morning, ladies and gentlemen. The subcommittee is pleased to receive testimony from a number of our colleagues. We will ask our colleagues to testify in the order of their appearance. I am pleased to welcome the distinguished new junior Senator from Maine, Ms. Snowe. I will make a few statements followed by the chairman, and perhaps by that time Senator Baucus will have arrived, and then we will proceed as quickly as possible. We are expecting Senator Nickles, Senator Campbell, Senator Simon, Senator Lautenberg, and possibly Senator D'Amato.

We have two issues this morning developed during the ISTEA legislation, the percentage use of crumb rubber in asphalt pavement and the safety program for motorcycle helmets.

I also want to at this time to indicate to our distinguished chairman and the ranking member that this subcommittee will proceed toward a markup as quickly as possible. Our last hearing is scheduled for April 6 to receive further testimony, Mr. Chairman. That will cover innovative financing options to stimulate private sector capital investment in the transportation projects. Over the April recess, I have directed the staff to assess the information presented in our hearing and to make recommendations on issues to be considered in the subcommittee markup. My expectation is that the subcommittee will be ready to markup this bill shortly after the April recess.

I will consult with the chairman, the ranking member, and particularly the members of this subcommittee in hopes to move a bill

that addresses the issues to make ISTEA more efficient and flexible for our State partners and the traveling public, keeping with providing the maximum amount of decisionmaking in our States. Speaking for myself at the moment, I hope this legislation will not include demonstration projects and that it can be a clean bill and moved expeditiously to the House.

What the House may do, I am not going to opine at the moment. But I will consult with the chairman and the members of this committee on what parliamentary procedures we may wish to pursue in the event the House loads up its bill with demonstration projects. I certainly do not want to put the Senate at a disadvantage. There are several procedural courses of action we can consider. I point out that under the traditions of the Conference between the House and the Senate, it is our expectation that the Senate this year will provide the chairman for that conference.

[The prepared statement of Senator Warner follows:]

STATEMENT OF HON. JOHN WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Good morning ladies and gentlemen. The Subcommittee is pleased to hear from a number of our colleagues, Senator Nickles, Senator Campbell, Senator Simon, Senator Snowe and Senator Lautenberg—a member of the full Committee.

I also welcome our other witnesses to discuss two issues provided in ISTEA which have generated a great deal of attention and discussion—the percentage use requirement of crumb rubber in asphalt pavement and the diversion of funds to State safety programs for States without motorcycle helmet and safety belt use laws.

At this time, for the benefit of my colleagues and the public I want to indicate my intentions on the Subcommittee's plans to proceed to mark-up of S. 440, the designation of the National Highway System. The Subcommittee's hearing today is the third hearing on the National Highway System. Our last hearing is scheduled for April 6 to obtain further testimony on the NHS and innovative financing options to stimulate private sector capital investment in transportation projects.

Over the April recess, I have directed staff to assess the information presented in these hearings and to make recommendations on issues to be considered in the Subcommittee mark-up. It is my expectation that the Subcommittee will be ready to mark-up this bill shortly after the April recess.

It is my intention, subject to the concurrence of Chairman Chafee; the Ranking Member, Senator Baucus; and other Subcommittee members to move a bill that addresses issues to make ISTEA more efficient and flexible for our State partners and the traveling public. In keeping with providing the maximum amount of decisionmaking flexibility to our States, I do not propose that this legislation include demonstration projects.

I recognize that some of my colleagues are concerned about the disadvantages to the Senate of conferencing highway bills with the House—which traditionally provides funding for a large number of demonstration projects.

I want to be responsive to these concerns and, in doing so, I see that the Subcommittee has two alternatives. One option is to fund projects in the Senate bill with offsetting budget reductions in the regular apportionment program. Another alternative is to see what approach the House takes on demonstration projects this year and in conference solicit the priorities of my Senate colleagues.

I am advised that according to past practice and tradition, the Senate will chair the conference on the NHS legislation so there will be opportunities for my colleagues to advocate the particular needs in their States.

These are my thoughts and I welcome the views of my colleagues on this question before we go to mark-up.

Now, to the specific issues before the Subcommittee today: the impact of the requirement to use crumb rubber in asphalt and to require States to enact motorcycle helmet and safety belt laws.

I must state that throughout my Senate career I have considered myself a strong defender of personal freedom and States rights, as well as one who has consistently tried to rein in the heavy hand of the Federal Government.

I am persuaded, however, that the Federal Government urging States to enact motorcycle helmet and safety belt use laws has been effective in saving lives. The

information which documents the increase in fatalities and injuries suffered by nonhelmeted motorcyclists seems conclusive. Further, we know that the medical costs associated with these injuries, which sometimes results in long-term health care costs, are passed on to taxpayers.

The General Accounting Office states that "when universal helmet laws have been in effect, fatality rates have generally been 20 to 40 percent lower." The GAO confirmed that "universal helmet laws increase helmet use and reduce fatality rates."

In testimony presented earlier this year by the National Highway and Transportation Safety Administration, Administrator Martinez submitted information which states that head injury is the leading cause of death in motorcycle crashes and that an unhelmeted rider is 40 percent more likely to incur a fatal head injury than a helmeted rider.

I also understand the views of my colleagues that States should be allowed to enact their own helmet laws. I would agree with this view if there was some evidence that States would maintain their motorcycle helmet use laws without Federal direction.

However, when Congress repealed the sanctions on States without motorcycle helmet laws in 1976, 27 States weakened or repealed their laws. According to NHTSA, the result of this action was a 61 percent increase in motorcycle fatalities.

More recent information from individual States shows that, in the six States that have enacted helmet laws since 1989, the first year results have been significant. Fatalities from motorcycle accidents dropped by 36 percent in California and by 15 percent in Maryland—the State showing the smallest reduction.

Since 1991, when ISTEA was passed, motorcycle fatalities nationwide have shown a steady decrease. This is a valuable trend which should not be reversed.

With respect to the use requirements for crumb rubber in asphalt, the information on the mixed performance of this material based on differing weather conditions, geography and surface conditions among States indicates that the current requirement is difficult to meet in every State.

As such, the appropriate Federal role remains one of conducting research and development to foster the success of all types of modifiers in asphalt and to provide this information to the States for their use.

I commend States which have moved forward with using crumb rubber in asphalt pavement and recognize the potential benefits of this program to reduce the piles of waste tires in this country.

I remain concerned about the added cost of this material and its unpredictable durability. I welcome the informative comments of our witnesses today on the ability of States to comply with the crumb rubber use requirements.

Senator WARNER. Senator Chafee.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Thank you, Mr. Chairman.

I am delighted you are having this hearing and want to commend you for pressing on the National Highway System legislation and the schedule that you indicated. I think that is fine. As you and I have discussed, we are going to get on with this. The hearing you are having today is an important component because both of the elements we are dealing with today—namely the section 153 on safety belts and motorcycle helmets and section 1038 on the rubberized asphalt—are going to come up in amendments when we get to the Senate floor or at some time or another. I think it is fine that we are going to deal with this.

There is no question on where I stand on these. I felt very strongly about these when we did the ISTEA measure some 3 or 4 years ago and have had no reason to change my mind since. However, I want to listen to this testimony. I might like to make a couple of points.

One of the suggestions will probably be that there is no role for the Federal Government in this area, that this is the States' area and the Federal Government should stay out of it. I would like to

point out that 40,000 people are killed in motor vehicle crashes each year and 2.2 million people are seriously injured. They are being killed and injured primarily on highways which are built with significant amounts of Federal money. We at the Federal level are responsible, it seems to me, for the safety on those highways.

The second point I would like to make is that motor vehicle crashes cost the country $130 billion a year, 2 percent of the gross national product. And taxpayers are paying a big part of this bill in the form of publicly funded health care, increased public assistance, and reduced income tax revenue. So it seems to me that the Federal Government has a clear interest in trying to reduce this burden on the taxpayers. Indeed, we have had some success over the past 10 years through the use of safety belts and motorcycle helmets. They have saved $110 billion.

Finally, there is no doubt that they work.

So Mr. Chairman, I know there is tremendous pressure out there from various groups to repeal these safety laws, but I think we must realize that it is the Federal presence that makes some of these laws possible. We wouldn't have any uniform national minimum drinking age without the Federal leadership. The last time the Federal Government removed a strong encouragement for motorcycle helmet laws, 27 States repealed or weakened their laws and the motorcycle fatalities increased 61 percent.

On the crumb rubber, we have had these experimentations. We have a terrible problem facing us. Just listen to this, Mr. Chairman. There are between 2 billion and 3 billion tires located in tire piles around the country. I am sure you have some in your State; we have a mammoth one in our State. Each year Americans discard over 250 million tires. There is a tire discarded every year for every single person in the United States of America. They are frequently the site of toxic fires, tire dumps are breeding grounds for mosquitos and rodents, or they contribute to the pollution of our streams and groundwater.

So Mr. Chairman, I look forward to the testimony here. I will have a chance for further comment as we deal with this.

[The prepared statement of Senator Chafee follows:]

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

I am pleased to be here this morning to listen to the views that will be presented regarding our national transportation program. An effective national transportation program must increase mobility, enhance safety, and protect the environment.

This morning I want to focus on two transportation programs included in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA): (1) the section 153 safety belt and motorcycle helmet safety program which greatly enhances public safety, and (2) the section 1038 rubberized asphalt program which protects the environment.

The section 153 program encourages States to pass both a safety belt and a universal motorcycle helmet law. If a State chooses not to pass these laws, it must spend a small amount of its highway construction funds on highway safety activities.

We will no doubt hear testimony today that there is no role for the Federal Government in this area—that these issues are best left to the States or to individual choice. I strongly disagree with this view for the following reasons:

First, more than 40,000 people are killed in motor vehicle crashes each year and over 2.2 million are seriously injured. They are being killed and injured primarily on highways which are built with significant amounts of Federal money. We at the Federal level are responsible for the public's safety on these highways.

Second, motor vehicle crashes cost the country $130 billion each year—2 percent of the Gross National Product. And taxpayers pay a big part of the bill in the form of publicly funded health care, increased public assistance, and reduced income tax revenue. The Federal Government has a clear interest in finding ways to reduce the cost burden to taxpayers. In the last 10 years, the use of safety belts and motorcycle helmets saved over $110 billion.

Finally, there is no doubt that safety belts and motorcycle helmets work—they save lives and reduce serious injuries. In the last 10 years, the use of safety belts and motorcycle helmets saved over 62,000 lives and prevented 1.3 million serious injuries. And more importantly, there is no doubt that safety belt and motorcycle helmet *laws* greatly encourage safety belt and motorcycle helmet use. It takes a strong Federal, State, and local partnership to protect the public health and safety.

There is wide support from the public for safety laws. However, there is tremendous pressure from special interest groups to repeal safety laws. We have evidence of what happens when the Federal presence is removed. There would be no uniform national minimum drinking age law without Federal leadership. The last time the Federal Government removed a strong encouragement for motorcycle helmet laws, 27 States repealed or weakened their laws and motorcycle fatalities increased 61 percent.

You may hear a lot of statistics today arguing that safety belts and motorcycle helmets are ineffective, and that we do not need safety laws—only education. The evidence, however, is overwhelmingly in favor of safety belt and motorcycle helmet use and laws.

Most recently, after California reenacted its motorcycle helmet law, deaths decreased by 36 percent. One thing is clear. When safety laws are passed, deaths and injuries decrease; when these laws are repealed and weakened, deaths and injuries increase.

The second issue I want to talk about this morning is rubberized asphalt. Scrap tires are a serious environmental problem in the United States. Each year Americans discard over 250 million used tires. As a result, they are piling up in dumps all across the Nation. Today, between two and three billion tires are located in tire piles around the country.

Tire piles are often the site of toxic fires that cloud the skies and the starting point for the pollution of our streams and ground water. In addition, these tire dumps are breeding grounds for disease carrying mosquitoes and rodents.

As Congress debated the Intermodal Surface Transportation Efficiency Act in 1991, we saw an opportunity to address this problem head on by utilizing the underlying highway program. Used tires are generated by people driving on the roads *we* build *with* Federal funds. If those same roads could be built with asphalt composed of recycled tires, the Federal highway program would create a market and a solution for one of the major problems that it generates.

That is the genesis of section 1038 of ISTEA. Ultimately, we are going to have to pay the cost of chipping and disposing of the tires anyway. Why not take the environmentally sound approach. The asphalt use envisioned in section 1038 is true recycling at its best. The rubber becomes the binder for aggregate in the finished pavement.

What's more, rubberized asphalt works as a pavement. For many years, some States, principally California and Arizona, have been experimenting with the use of recycled tire rubber as a binder in asphalt pavement. A variety of asphalt mixes and processes have been tested over a wide range of road uses and climatic conditions. The bottom line is, it works.

There is even evidence that asphalt pavement performs better than conventional pavement in some applications. In fact, the State of Florida recently announced that it will be using asphalt materials containing recycled tires in all road repair projects.

The time has come to do away with tire piles, a public nuisance and a real threat to our health and safety. Throw-away tires are a disaster just waiting to happen. Section 1038 is the answer.

Mr. Chairman, I look forward to hearing from our witnesses.

Senator WARNER. Thank you, Mr. Chairman.

I have commented in my opening statement on both of those issues, but I wish to hold an open mind, in fairness to our colleagues and other witnesses who will appear today.

You have cited alarming statistics with reference to safety laws—seat belts and helmets on motorcycles—and we will receive that

testimony today and include it in the record such that the full Senate will have the benefit of those facts and our deliberation.

As to the crumb rubber issue, Mr. Chairman, I would hope that again with an open mind—this time perhaps your's a little more open than mine—we look at the possibility of allowing the States to continue with these programs, but at the same time lifting in the spirit of unfunded mandates the current requirement on the States. Nevertheless, that is the framework in which I will consider these issues.

Now to the distinguished ranking member.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you, Mr. Chairman. I have a few very brief remarks.

Mr. Chairman, as you have announced—and I congratulate you in holding these hearings—it is quite important because in many respects I think the Federal Government has gone a little far in mandating certain requirements on States. These regulations can be very technical. They can be very detailed. I think it is easy to get tangled up in the details. I frankly believe, Mr. Chairman, as we look at these regulations that we should ask ourselves a very basic, simple question: Has Congress or the Federal Government generally begun to forget that ordinary folks basically know what is good for them? That is the question.

I will give you an example.

In the case of safety belts, the voters of Montana recently voted for a seat belt law. I was one of those voters. But Montanans did not vote this way because of a threat of highway funding sanctions. They did it because it was the right thing to do. Actually, it is kind of dumb not to wear seat belts and I think most Montanans understand that on their own.

So I think there is not much need for Washington to order a lot of people around—people in my State anyway—and threaten them with holding back their highway funds.

Another good example is the transportation regulations that the Department of Transportation is undergoing a review of right now. I welcome this review. I think it is high time they conduct this review. In fact, I have some ideas on regulations that are burdensome and I think don't make much sense.

Take management systems, for example. The regulations for management systems require State and local officials to develop mountains of paperwork, particularly burdensome to smaller communities. Ultimately, we will get to the point that Vice President Gore found last year when he looked at the Office of Personnel Management and found that they have a 10,000-page operating manual. If you want a comparison, Mr. Chairman, the King James Bible is about one-fifth of that length. Nobody can read this manual, therefore nobody used it. The vice president had them throw it in the trash can and I don't think anybody has missed it.

So what will be the benefit of a lot of new management regulations? Are we at the point where the volume of papers make it hard for States to deliver good transportation? In many cases, I think we are.

No one wants to compromise the safety and health of our citizens. We do need to exercise some common sense. Most of the time—not always, but most of the time—ordinary folks, ordinary Americans know their needs pretty well. I hope this hearing will give everyone a reminder of just that.

Thank you, Mr. Chairman.

Senator WARNER. Thank you very much.

Senator Bond.

OPENING STATEMENT OF HON. CHRISTOPHER S. BOND, U.S. SENATOR FROM THE STATE OF MISSOURI

Senator BOND. Thank you very much, Mr. Chairman.

I really appreciate the attention and high priority you have given the National Highway System bill. And I am very grateful to you, the chairman, and the ranking member of the full committee because I have worked throughout my career to assure that we have a national strategy developed with State input, working from the bottom up to link all regions. For the State of Missouri, it is vitally important that we be part of a national network that will provide our citizens and our businesses the same kind of full access to markets that the coasts currently have.

The State of Missouri acted promptly in submitting its plan to the Department of Transportation and I think this NHS bill provides a vitally important approval to move forward on an issue which is of tremendous interest to our State and its transportation needs. We hope the committee will pass this and that the Congress will pass it as soon as possible.

Even though I don't believe we should clutter up the bill, I appreciate the fact that we are going to have an opportunity today to discuss some additional transportation issues relating to safety. I would say that I find myself in very much agreement with the remarks of our ranking member on some of the mandates and some of the excessively burdensome restrictions we have put on States in transportation areas.

But just to take a quick look at some of the safety issues, we have 40,000 people die each year on our highways—many more are injured—100 people are killed in crashes every day and costs the Nation $137 billion, including $14 billion in health care alone. Child restraints, which I strongly supported in Missouri, safety belts, motorcycle helmet laws are said to save nearly 10,000 lives and save taxpayers more than $17 billion a year. In 1993, one person was killed or injured in a motorcycle traffic accident every 7.1 hours in the State of Missouri and head injury was the leading cause of those deaths in motorcycle crashes.

In addition, in 1993 a young person died in a traffic crash an average of once an hour during the weekend and once every 2 hours on weekdays. More than half of all youth weekend fatalities were alcohol-related. Thus, I think the safety measures have been effective in preventing deaths and injuries, resulting in tremendous savings of taxpayer dollars, which are obviously less important than the lives they have saved.

I do have a problem—as you have indicated, Mr. Chairman—with the ISTEA mandates on crumb rubber. I question its beneficial impact. For 2 consecutive years Congress has put a morato-

rium on penalties for States which fail to meet the mandate due to the unanswered questions. I will tell you that in my State of Missouri, after experimenting with the use of asphalt rubber concrete for resurfacing on several projects since 1990, the cost for asphalt rubber has been at least double the cost of Missouri's standard high-type asphaltic concrete mix. For Missouri to comply with the 1996 requirement of 15 percent, 195 tons of crumb rubber would be necessary to meet the mandate. This would increase the cost in our State by $4.8 million, not an inconsiderable sum—and we don't see the savings.

I think we can do better things with scrap tires. For example, our State has a utility company that is successfully burning old tires as a supplemental fuel. Some States have reported using top tires as fill materials in roadway embankments because of its lightweight and drainage capabilities.

But most of all, Chairman Warner, I thank you for your expeditious hearings on NHS. I am delighted to be an original cosponsor and look forward to working with you toward its passage and on the additional issues that will be addressed today.

Senator WARNER. Thank you, Senator. You bring to the Senate and indeed to this particular issue a great deal of experience as a former Governor. We have three former Governors here, so that is very valuable.

At this point I want to recognize the Senator from Florida, then I want to address the Senators here.

OPENING STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator GRAHAM. Thank you, Mr. Chairman.

I, too, share the opinion that has just been expressed by our colleague, Senator Bond, and am pleased that this legislation is being given such expeditious attention. It is very important to the States and to the Nation in terms of establishing a basic framework of a National Highway System.

I would like to comment on the items that we're going to be discussing today because I think they raise again some basic questions of the appropriate relationship of the State and the Federal Government. The fundamental question recurs as to who should decide? Should there be a single decision made in Washington, DC, to cover all 50 States? Or should there be a decentralized set of decisions made in 50 State capitals and thousands of local communities to relate to the specific circumstances that will vary from community to community.

I start with the basic predilection to support a more decentralized set of decisionmaking and therefore those who would urge a national approach have the burden of proof, to me, as to why such a national approach is either necessary or is likely to be more effective and in the public interest. I look forward to the discussion today to see if those arguments can be made.

Senator WARNER. Thank you very much, Senator.

I just want to bring to the attention of those Senators present today again the desire of the chair to move this bill, to have certain policy issues such as are before us today—let the Senate work its will on that. As it relates to demonstration projects, it is my judg-

ment that the Senate should not endeavor to put on this bill demonstration projects. Given the necessity of the States to have this bill within the prescribed time, I would hope I could receive support from the chairman and ranking member.

Senator CHAFEE. Mr. Chairman, I certainly give you my support. You and I have discussed this. As you pointed out, the House has a predilection for an abundance of demonstration grants. We will just have to wrestle with that when we get to Conference on how to proceed. But I am totally with you.

Senator BAUCUS. Mr. Chairman, that was very much my view in the earlier regime.

Senator WARNER. Let's show leadership here in the Senate on this issue.

Now we will receive the testimony of our distinguished colleague from Maine. Thank you very much. I appreciate your indulgence while we gave our views up here.

STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM THE STATE OF MAINE

Senator SNOWE. I appreciate that, and I want to thank you, Mr. Chairman, Chairman Chafee, and the ranking member, Senator Baucus, and Senator Bond, and Senator Graham for giving me this opportunity to testify. I am sorry if I have to be quick, but I have to chair a committee hearing at 10 o'clock. So I will quickly summarize my statement. I regret having to leave because I would like to have answered some of these questions regarding this issue.

Let me just say that I appreciate this opportunity to be able to discuss this issue. I have already testified before the House committee and have testified on numerous occasions in the past. I have introduced legislation in the last Congress and in this Congress that would repeal section 153 of ISTEA that was enacted in 1991 that essentially imposes, as you know, a penalty on those States who choose not to enact a mandatory helmet law.

That penalty is not inconsequential for the 25 States that have not enacted such a law. In fact, it represents collectively $49 million for those States in 1995 and $98 million in 1996.

Mr. Chairman, I happen to think that we should take a different approach. I think there is no question that the American people want us to reduce the scope and size of the Federal Government, not to mention unwarranted intrusions, as this penalty represents in my opinion. It is interesting to note that since ISTEA was enacted in 1991, there has been only one State that has chosen to follow this path, which is the State of Maryland.

In fact, between 1989 and 1992, there were five States that had adopted mandatory helmet laws, but ISTEA seemed to have reversed a trend because since that time 15 States have formally rejected mandatory helmet laws. The other 10 States either didn't have legislation introduced or the legislation was not reported out of committee.

It is obvious that half of our States have recognized that they want to take a different approach. Quite frankly, beyond the fact that this penalty is coercive, it doesn't properly address the issue. The States have chosen to take the approach of adopting motorcycle rider education programs. In fact, there are 44 States across

the country that have unilaterally and voluntarily adopted such programs because they have proven to be effective. In fact, in the last 2 weeks the State of Wyoming adopted such a program. Collectively, those programs raised $13 million because they impose fees on motorcycle registration and licenses. And we have seen that those individuals taking a rider education program—a safety program—are certainly better drivers. That is the bottom line.

We have statistics that have been given by the National Highway Transportation Administration that show from the police accident reports that 45 percent of those accidents indicated motorcyclists did not have licenses, another 92 percent had no formal training. Mr. Chairman, 50 percent of fatalities occurred between the ages of 17 and 26, and 44 percent of those accidents were related to alcohol.

So there are a variety of reasons as to why these accidents occur. But many of them don't relate to wearing a helmet. I think the States ought to have a choice in adopting this approach. And I frankly think this penalty is unprecedented in the way in which it is approached because it sets aside existing highway funds, which is highly unusual. Ordinarily, if we want States to adopt a certain measure or approach, we encourage them through incentive grants, but we don't withhold existing funds that ordinarily would have gone to them.

In this case, they certainly need the highway funds for badly needed road repairs—that is true in my State of Maine. So I would encourage this committee to reconsider the position that was taken in this legislation in 1991. In fact, between 1980 and 1992, motorcycle fatalities were reduced by more than 52 percent. That was before ISTEA took effect.

So the point is, I would think that we would reconsider this approach. It certainly does represent intrusiveness on the part of Government. I think certainly the States have an obligation to look at the issues in the way they want to. And certainly it should not be dictates from the Federal Government as to what we deem to be politically correct, or what we deem to be the best approach to highway safety.

I will ask unanimous consent to submit my entire statement for the record, Mr. Chairman.

Senator WARNER. Without objection, your prepared statement will appear in the record.

Senator SNOWE. I regret that I won't be able to be here for any questions you might have.

Senator WARNER. Thank you, Senator. You have very carefully and objectively presented your case. I appreciate your taking time from an otherwise overloaded busy schedule to come. It shows the conviction and forcefulness which you wish to put behind this issue.

Thank you very much.

We now have our fellow colleague on this committee, Senator Lautenberg.

We welcome you.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you very much.

I now get a picture of what it is like to sit here. It is very interesting, I must say.

Senator WARNER. Are you slightly intimidated?

Senator LAUTENBERG. Quite intimidated.

[Laughter.]

Senator LAUTENBERG. Mr. Chairman and fellow members of the Environment Committee, I am here to express my concern about the proposals that would roll back Federal highway safety initiatives. Since I have been in the Senate I have been very active in transportation issues and until recent events overcame us, I was chairman of the Transportation Subcommittee on Appropriations. But I am still interested and I want to do what I can to make sure that our highways are safe.

Senator WARNER. We well know the investment of your time you have put in on a wide range of transportation issues. The record clearly reflects this and the legislative laws on the books today.

Senator LAUTENBERG. Thank you. In 1984, Mr. Chairman, I know you were here and were supportive. I sponsored legislation that provided incentives for States to set a uniform drinking age of 21. This legislation was a response to the carnage that was taking place at borders that were euphemistically called "blood borders"—borders that teenagers would cross to drink, have a good time in a county or State with a lower drinking age and try to return home and too often didn't make it. My State experienced that directly because New York State for a long time—Pennsylvania as well—had a lower drinking age than did New Jersey.

Mr. Chairman, the 21 law worked very, very well. A study carried out in North Carolina found that raising the drinking age reduced the drunk driving arrests for underage male drivers by 70 percent and the accident rate for this group by 44 percent. The National Highway Safety Administration, sitting in front of our committee, estimates that this legislation has saved 10,000 lives since its enactment. Kids—people under the age of 21—had their lives saved as a result of this law. We shouldn't roll back 21, nor should we roll back any other Federal legislation that has increased the safety of Americans on the road.

I have the utmost respect for all my colleagues sitting out there, and those who were Governors and felt that decisions should be made in State capitals rather than Washington, D.C. are often right. But this is one in which we all bear the expense of decisions that go awry. That is the basis for my appeal, Mr. Chairman.

The bills introduced into the Senate to remove motorcycle helmet requirements, seat belts, and speed limit laws would seriously threaten the well-being of Americans every time they take to the road. Each day 107 people die in a car crash. Thus, Mr. Chairman, in less than 2 years more people die on our highways than died in all the years in Vietnam. It is a national tragedy that we ought to work to eliminate. We can't stop highway fatalities altogether. However, we have a moral obligation to minimize the number of Americans who die each year in motor vehicle crashes.

But these proposals would do just the opposite. During the first full year after the enforcement of seat belt laws, traffic deaths dropped by 7 to 21 percent in various States, depending upon how strictly the State enforced its seat belt laws. If you look at the statistics on motorcycle helmets, you will find the same trend. Helmet laws save lives. Head injuries are the leading cause of death in motorcycle crashes and the nonhelmeted motorcyclist is 40 percent more likely to die of a fatal head injury than a motorcyclist with a helmet.

In Oregon, there was a 33 percent reduction in motorcycle fatalities the year after its helmet law was reenacted. California similarly experienced a 37 percent reduction when its law went into effect.

I have been talking about the most important issue in auto safety: life or death. But for those who say that we should let the States and let the drivers decide for themselves, I am OK with letting the States decide for themselves provided that nonhelmeted motorcyclists do not get Medicaid support from the Federal Government. Let the State pay for it. If they want to make the decision, let them do it as far as I am concerned.

I visited trauma units in New Jersey and they deal with everything from gunshot wounds to helmeted and nonhelmeted motorcycle accidents. I have seen the 18-year-olds, 19-year-olds, and 25-year-olds. They are unable to move except for perhaps their lips because of a motorcycle accident.

Mr. Chairman, it is one thing in terms of some of us making decisions for others. But those motorcyclists who wind up crippled and unable to function cost every one of us money through one Federal program or another such as disability programs or Medicaid programs. There is a bizarre joke that goes around that says that we shouldn't fight this too hard because the best source of young organ donors are motorcyclists without helmets. It is not funny, but it is unfortunately frequently a fact.

Traffic safety doesn't just save lives. It also saves money. The failure of motorcyclists to use helmets has placed a huge financial burden on society. I know sitting next to me is a good friend and someone who totally disagrees with my view on this.

Hospital studies have shown that non-helmeted motorcyclists are more likely to have higher hospital bills and less likely to have health insurance than riders with helmets. The National Highway Transportation Safety Administration estimates that the use of helmets saved $5.9 billion between 1984 and 1992. So when the motorcyclists say that they want Government off their backs and they want to be free to feel the wind in their face, that is all right. But, it is important to realize that there are a lot of people who don't ride those motorcycles and who don't think that we ought to be paying the bill for the consequences of an accident.

Mr. Chairman, as a father of four children, I have experienced the concern of waiting up late at night when kids are coming home from a dance or a party, and I am looking at the clock every hour and pacing until I finally hear a car in the driveway. That is an anxiety for all parents. For most of us, it ends when our kids after college go off in their own lives. But all children don't get that opportunity. I am sure each member up there has known a family

that lost a child in a driving accident that included alcohol. A young boy that I knew lost his life incinerated in the front seat of a car because the 16-year-old who was driving the car had been drinking too much beer. He was incinerated.

Each year, too many parents open the front door in the early hours of the morning expecting to see a child and instead see a policeman.

Losing a child is a tragedy of unparalleled proportions. We ought to do whatever we can to make sure that that doesn't happen. We owe it to our families and all the families in America to do our best to protect Americans from the dangers of drunks on our highways, from the carnage of speeding cars, from the absence of seat belts. America's roads and highways were built to take us from home to school to work to vacation, not from home to the hospital, to the morgue, and to the cemetery.

Dr. John Siegel, who was recently moved up to New Jersey from down this way, the director of the New Jersey Trauma Center at our University Hospital, has submitted testimony to this subcommittee on these issues. I would encourage all my colleagues to review his comments. I heard them directly a week ago. I hope that my colleagues on the committee will recognize the importance of traffic safety and our obligation to save lives wherever we can do it. We do it in the military and I would like to see us do it here.

Thank you, Mr. Chairman.

Senator WARNER. Thank you very much, Senator.

We will in a moment turn to Senator Campbell and we also note the presence of the distinguished senior Senator from Oklahoma, Senator Smith.

Senator SMITH. I will be very brief, Mr. Chairman, in deference to my colleagues who just came in.

I want to thank you, Mr. Chairman, for your leadership on this issue in holding this hearing today to address these several controversial Federal mandates as part of the 1991 ISTEA legislation. One of those mandates is section 153, which I am particularly concerned about—and I know many of my colleagues, certainly Senator Campbell, Senator Snowe, and others, share this concern.

This action penalizes States that do not enact mandatory motorcycle helmet and seat belt laws by essentially diverting the scarce construction funds to their safety program—whether they need more money into the safety programs or not, that is where the money has to go. So they either don't spend it or find a way to spend it that they don't really have to spend. It keeps the money from going into fixing a pothole or fixing a road or a bridge that may cause somebody to die.

I think this is fiscal blackmail and I think we get into this area of personal freedom and personal choice. We could ban all automobiles and all motorcycles and save 50,000 lives if that is the issue. We could ban flying in airplanes and save a few thousand more. We could ban all wars, I guess, and not have anyone get killed there, too. But there is a price for freedom. Everybody knows that. That is what our society is all about.

But I am not here to debate the merits of whether we ought to wear a seat belt or not, or whether we ought to wear a helmet or not. I don't drive a motorcycle, but I do wear seat belts—that is my

choice. It ought to be everyone else's choice. But more importantly, it is the issue of Washington, DC, micromanaging what could be dealt with at the State and local level.

States have the flexibility to devote highway funds where it makes the most sense—fix the bridge, fix the road, have a safety program. In conclusion, I would just like to talk about New Hampshire. We don't have any mandatory helmet and seat belt laws, and a substantial amount of ISTEA money is held up and being forced into a safety program that we don't need. We have a good safety program and we don't need to spend more money on our safety program. So we are having several hundred thousand dollars diverted from what we could use for construction or repairs on our roads, Mr. Chairman.

Our fatalities for 1 million miles is one of the best safety records in the Nation. So educational programs do play an important role and we have them. So I believe that the States have the expertise and know-how to develop their own programs—thank you—without Washington, DC, telling them what to do. I think that is what we voted for last November.

Thank you, Mr. Chairman.

Senator WARNER. We thank you, Senator Smith. That is very valuable insight you have in reference to your own State.

Senator Campbell.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM THE STATE OF COLORADO

Senator CAMPBELL. I would just point out a few things. I didn't hear all the earlier statements, but I did hear part of Senator Lautenberg's statement, and I know that he often—when he has time—comes to our wonderful State of Colorado to ski. We have discussed a number of times the great ski country. I would recommend it for anyone. He has a great time out there.

I would point out that we have had five skiers this year that I know of that were killed on those slopes and not a one of them was wearing a helmet. If I was a skier, I would be concerned if the Government was going to mandate that I had to wear a helmet when I went up on those slopes. And when you talk about the public burden theory—whether it is skiers, motorcyclists, or anybody else—it is all the same. The question is, should government in an effort to protect you from everything and yourself, too, have the authority to force you to do certain things under the guise of the public burden?

I have probably half a dozen studies—I didn't bring them, but you can find studies to support anything you want to support these days. You know that as well as I do. We have probably a half dozen that say that motorcyclists do not create a bigger public burden than anybody else who is injured proportionate to the type of injuries. In our own State of Colorado, I tried to find out in fact from every State agency if motorcyclists did create a bigger public burden than babies falling out of cribs or people suffering any kind of an accident.

There is no agency in the State of Colorado that defines how they are hurt when they make the payouts. It is paid out of a pool. When a person is incapacitated and doesn't have an insurance pol-

icy, it is paid out of a pool, but that pool doesn't determine how it was they were hurt when they get on the roll. But I have a number of studies that indicate that motorcycles aren't any bigger a public burden than anybody else.

But that is not the question. In fact, it is not even a question of whether you should or shouldn't wear helmets. First, I might point out that no Government agency and no manufacturer, to my knowledge, will guarantee that they work over 15 miles an hour. And who the heck is going to be under 15 miles an hour? And we have almost a stereotype attitude that somehow helmets are going to fix everything if you're riding a motorcycle.

I might point out this true story. About 6 months ago, I was washing my motorcycle and the thing fell off the wash rack on its side. They are heavy and weigh about 700 pounds. I was alone at home at the time in the gravel driveway. I wrestled it back up to its wheels and in doing so I felt a pain in my stomach. I didn't know what it was and went to a doctor later and found out that I had gotten a hernia.

I went to the doctor and had it fixed and came back here to the Capital—I hadn't been here for a couple of days—and I met a man on the street from Colorado. He wanted to know where I had been because he had been looking for me for a few days. I didn't want to tell him because I didn't think it was any of his business. So I was kind of hedging.

He said, "Where have you been?"

I said, "I have been out of the office."

He said, "Where?"

I told him, "I was in the hospital for awhile."

"What were you doing? What happened?"

I was kind of backtracking and trying to hedge a little bit. Finally, I said, "Well, you might say that I had a little accident with my motorcycle."

The first thing he said was, "Were you wearing a helmet?"

[Laughter.]

Senator CAMPBELL. That is the stereotype attitude. If you wear a helmet, everything gets fixed around a motorcycle. That is simply not true. The biggest majority of accidents, by the way, are not motorcycle-caused. They are automobile-caused—over two-thirds are caused by motorcycles being hit by cars, not the other way around.

But I have to say that if we are going to mandate that everybody get protected for some unforeseen thing, we ought to mandate that people wear sunscreen in the summer in Colorado as well the skiers that ski on our wonderful slopes because people get sick and eventually could die of cancer.

So the question to me isn't whether you should or shouldn't, I think it ought to be left to the individual. But more important, if we are going to do it, it should be done through some kind of safety education.

Colorado had a mandatory helmet law until 1977. We repealed it. Our accidents and deaths have gone down in Colorado—not up—since we repealed it. We have the statistics to prove that in Colorado.

We are talking on the Senate floor almost every other day about mandating certain things to States. And recognize that if anything,

part of that last election was about getting Government off our personal backs, although I don't agree with all parts of the so-called Contract With America, the part that deals with Federal Government imposing restrictions on your personal life—I think it is time we repealed that section.

I think 27 States, if I am not mistaken, are being penalized or are in the process of being penalized because they haven't complied. Maybe it is Senator Smith's State of New Hampshire. I saw a license plate the other day in town that said "Live Free or Die". Is that a New Hampshire saying?

That sounds a little poky in this day and age, but the fact of the matter is that many Americans still believe that we have had enough Government imposing what we do with our lives.

I did introduce a bill, as you probably know, that offers an option that basically says that if States do have rider education training in place that we won't penalize them financially from the Federal Government. I think it is a good alternative for those people who do not believe in an outright repeal because at least it lets the States decide if they want a mandatory helmet law or if they want not to have one.

With that, Mr. Chairman, I would just like to submit my complete written testimony.

Thank you, Mr. Chairman.

Senator WARNER. Thank you, Senator. You do speak with a voice of experience in motorcycles.

Senator CHAFEE. Mr. Chairman, I had a question for Senator Campbell. But are you going to stay through Senator Nickles' statement? Then I can ask you. What are your plans?

Senator CAMPBELL. Yes, I can stay.

Senator WARNER. Senator Nickles.

STATEMENT OF HON. DON NICKLES, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator NICKLES. Mr. Chairman, thank you. I thank the rest of the committee members as well for your hearing today. I think this is a very interesting hearing and one that I hope the committee will move forward on.

Mr. Chairman, I have introduced legislation, S. 476, which would repeal the penalty on States if they exceed the national maximum speed limit. This is one of 19 restrictions that we now have on the Federal Code that penalizes States if they don't comply with it. One of them is the helmet law. Others include things such as asphalt content or rubber content in highways. There is a list of these.

The biggest, though, is the speed limit. But I would urge the committee to look at all 19. I do believe in the 10th Amendment. More people are starting to look at it. All the rights and powers are reserved to the States and the people. Why in the world would the Federal Government have the idea that they can set speed limits better in Montana or Oklahoma than we can in our States. I just disagree with the fundamental concept that the Federal Government knows best. If you don't comply by posting the national speed limit, you will lose a certain percentage of funds. In this

case, it is up to 10 percent, which is a heavy hammer. That is an ax over the States.

So all States are theoretically complying. So all States have speed limit signs which say 55, but I will venture to say that in many places in Virginia, Montana, Oklahoma, New Hampshire, Missouri, and Florida people aren't complying. I think that is a mistake as well. I think we should give the latitude to the States.

For our colleagues to say, "Wait a minute. What about safety? What about loss of life?" I have total confidence in the States that they can make decisions and they are just as concerned about saving the lives of their citizens as the Federal Government is. I happen to believe that States are concerned about safety. I think most States if they think this road or highway or particular stretch of highway is not safe above 55 or above 40, then they won't have the speed limit above that amount.

Likewise, I can tell you there are some places in western Oklahoma where it is safer to go above 55. But I think the States should be able to make that decision. If the State wants to leave it at 55, that is fine with me, too. I think the States should be able to have that kind of discretion. I think the individual State highway departments, the individual Governors, the individual State legislators should be able to make that decision without the heavy hand of the Federal Government saying that if you don't do it they are going to withhold 10 percent of our money.

It is the States' money. That is not Federal money. Those are State taxes collected. Some States may receive a little more than they put in. Some States receive less. Our State happens to be a so-called "donor" State. So we have to get on bended knee to get 90 percent of our dollar back and then we have to comply with Federal regulations. And if we don't comply with this one, we lose another 10 percent.

I don't think that's right. I don't think it is fair. I think we should entrust with the States the authority to make a lot of these decisions. I hope the committee will look at the speed limit. I was the author of the resolution that allowed the States to increase speed limits on rural interstates up to 65. Then we passed another amendment a couple of years later to allow turnpikes that met interstate standards—interstates were built for speed limits up to 70. So we passed an amendment and now we allow rural interstates and turnpikes that meet those standards to go to 65.

But why not entrust the States to make those decisions? We need to at least withdraw this 10 percent penalty that if the States don't comply with posting a 55 mile-an-hour speed limit they can lose up to 10 percent of their funds.

To quote from a letter I received recently from the Secretary of Transportation:

> There are 20 Federal mandates affecting highway funds which carry cash penalties for noncompliance. I am delighted by your action to repeal one of these mandates, the national speed limit, and I encourage you to do all you can to eliminate any other penalties to the States for noncompliance with mandates.

Mr. Chairman, I hope that we will do just that. Mr. Chairman, I would read into the record part of a statement from the American Association of State Highway Transportation Organizations. It is a resolution, and I will just read the "therefore" clause:

Therefore, be it resolved that the Board of Directors of AASHTO urges Congress to allow the States to set reasonable speed limits on urban and rural highways following established traffic engineering principles and in accordance with the Manual on Uniform Traffic Control Devices.

Let's eliminate the financial penalties that we're imposing on States to comply with Federal dictates and let the States do what they think is best in areas such as highway speed limits and helmet safety.

Senator Campbell is a cosponsor of my amendment and I cosponsored his amendment. I might mention that on the helmet safety, Oklahoma has a helmet safety law and it is a good one. But it doesn't totally comply with the Federal mandate. It is a good law. But the State is offended by the Federal dictates and they refuse to comply. They don't like this.

I have served in the State legislature and I share that opposition to the Federal Government trying to write or micromanage some of our laws. Therefore our State loses—I think it is over $1 million a year due to noncompliance just on this, even though they have a law that they are comfortable with that does a good job.

So I would urge the committee to look at all of them, particularly repealing the national speed limit. I think it is very popular in the States and we should trust the States. If the State of Rhode Island or the State of New Jersey wants to leave the speed limit at 55, that is great. If they want to set the speed limit at 50 or if they want to set it at 40, I think it should be their discretion. I don't think we have to have the Federal Government micromanage it from Washington, DC.

Senator WARNER. I would like to direct a question or two to our distinguished panel.

Senator Nickles, given the background of the interstate system—and it has been my understanding in working on this committee that one of the objectives of the interstate system is to provide a certain measure of uniformity in the safety laws as they relate to several States such that a driver originating his or her trip on the east coast and traveling to the west coast could expect not only in the construction, signing, and other things, a certain degree of uniformity. Would we put aside, then, this goal in the interstate system if we were to completely give to all the States the right to adjust in accordance with the will of their Legislatures and their people the safety standards?

Senator NICKLES. Mr. Chairman, as I mentioned in my statement, the Federal Interstate Highway System was built with a speed limit of 70 in mind, just for the committee's information. My statement is that the States should have that discretion. I also believe that the States would not set speed limits that they would think are not safe. Again, a rural interstate may be in Montana and maybe 70 is OK. If you are on flat and clear and open terrain, maybe 75. I don't know.

Senator BAUCUS. That's low.

[Laughter.]

Senator NICKLES. I don't say that we should be making that decision. I have enough confidence in State officials that they would not set excessive speed limits if they felt it would jeopardize safety.

Senator WARNER. Thank you, Senator.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

Senator Nickles, Senator Lautenberg made an interesting suggestion here. First, I advance on the premise—and I think the statistics and studies clearly show it—that a motorcyclist wearing a helmet has increased chances of surviving or reducing the severity of an injury. A helmet is a protective device for a motorcyclist. The Motorcycle Association requires helmets in all their sanctioned meets, for example.

Senator Lautenberg made the suggestion that if the States want to go their own way and do what they want, that is their business, but they shouldn't ask the Federal Government to help pay for the injuries which result from the absence of a helmet, i.e., no contribution from the Federal Government for Medicaid.

What would you say to that? Would you be prepared to accept that? In other words, the cry is here, "Stay off our backs, Federal Government. We know how to do things best." But here the Federal taxpayers all pick up the tab for what occurs.

Senator NICKLES. I appreciate your concern for taxpayers. Let me just mention that I think States share that concern both in safety and for taxpayers. Medicaid is a program that is Federal and State. Most States like 50/50 and some States——

Senator CHAFEE. I am referring to the Federal component of Medicaid.

Senator NICKLES. I know that. I wanted to emphasize that there is also a State component in Medicaid usually in the 50 percent range. Some States have less than that.

So I think the States share the interest on safety just as much as the Federal Government. I think the States share the concern financially just as much as the Federal Government because they are liable for those bills for non-payers as well.

I don't think you have to hold out this heavy-handed Federal Government and say, "We know best." You can take the same arguments that you need to have helmets for bicycles. Some States do. I think maybe the District of Columbia has passed it. I am not sure. I just don't think that is something that we as the Federal Government should be mandating.

Senator CAMPBELL. We continue to talk about studies, but in the studies that we have, we had one done by a medical doctor by the name of Goldstein that states that helmets increase the severity of head injuries due to increased weight, less peripheral vision, less hearing ability, and so on. So it really just depends on which study you believe.

But I was going to make another point—particularly since my friend, Senator Baucus, is here from Montana. I know he was very concerned about this.

When you talk about the financial things—the burden, the cost to the taxpayers—I think there is a misconception that somehow motorcyclists aren't taxpayers. The last study I saw that was done last year by several manufacturers, including Harley Davidson, indicated that the average income for motorcyclists is almost $40,000 a year. These are not people who don't have insurance. Most of them are educated, trained, a lot of professionals, and certainly taxpayers themselves. The amount of money they spent, in fact, is

often overlooked. In Sturgess, South Dakota they put $57 million a year into the economy of South Dakota. In a study that was done in Sturgess 2 years ago, 50 percent of them said that they wouldn't come back if South Dakota had a mandatory helmet law.

So if you're going to talk about related costs and where the money is coming from and who is paying, I think we have to also factor in the cost that motorcyclists are taxpayers and contribute a lot of money to a lot of communities, too.

Senator CHAFEE. Mr. Chairman, with the time short, I just want to say this to Senator Campbell.

One of the problems here is the statistics. You indicated that when Colorado in 1977 repealed its mandatory helmet bill the accidents declined. I would submit this to you—and you can tell me if it is accurate—"Colorado's experience clearly indicates the benefits of all rider motorcycle helmet laws. The State repealed its helmet law in 1977. The head injury rate rose from 104 to 317 per thousand crash-involved riders. The critical, fatal head injury rate rose 16 to 29 per thousand riders. Total fatalities rose from 33 to 61. The fatality rate per hundred thousand riders rose from 1.25 to 2.26. Based on data from the Colorado Division of Highway Safety"—which I presume is a pretty good outfit—"reported by the GAO, Colorado's motorcycle fatality rate decreased 23.8 percent after adopting the helmet law. After the law was repealed, the fatality rate increased 29 percent."

I will give this to you.

Senator CAMPBELL. We have other studies that indicate a different thing, but let me just say this. If all that was true, I can't believe the Department of Transportation for the State of Colorado, in its three highest priorities submitted to me just recently and about a month a go in letter form—of the three highest priorities they want to see done in the Federal Government—it is the repeal of the helmet law. That is from the Department of Transportation in Colorado.

Senator CHAFEE. Yes, they would like the money.

Senator CAMPBELL. Sure.

Senator CHAFEE. Thank you very much.

Senator WARNER. Thank you, Mr. Chairman.

Senator Baucus.

Senator BAUCUS. I would just like to ask the three of you very briefly just where we draw the line here. There are 19 sanctions against States who don't comply with certain related highway activities—vehicle weight limitations, enforcement of vehicle size and weight, speed limit, outdoor advertising, control of junk yards, maintenance, Clean Air Act compliance, air quality nonconformity, interstate system maintenance, drinking age, commercial's driver's license, drug offenders, seat belts, helmets, crumb rubbers, and so forth—where do we draw the line here? We are not 50 separate countries. We are 50 States in one country.

The chairman mentioned the desirability of some uniformity. People do travel a lot in our country from State to State whether they are tourists, traveling, or on business. We have truck traffic between States. I think Americans are conflicted. On the one hand they want these decisions made locally—if not county and councils, their own States. On the other hand, they want to have some ex-

pectation that when they travel to another State that the laws in that other State are basically fair and they kind of know what they are and are on notice.

So where do we draw the line here? There are about 19 here. Are there any of these that you think make sense? If so, which ones? Where do we draw the line here?

Senator CAMPBELL. Repeal the helmet law for me and you take care of the rest.

Senator NICKLES. Senator Baucus, I appreciate your looking at that, and I hope the committee will look at all 19. I haven't done enough research to find out what the penalties are.

Senator BAUCUS. It varies. Some are very severe and some are minor.

Senator NICKLES. The one I have the biggest complaint with is the big one because a 10 percent withholding on Federal highway moneys—that is a big hammer. That is too big. States can't afford to lose that.

Senator BAUCUS. Then you would draw a line according to the severity of the penalty?

Senator NICKLES. I would hope the committee, if nothing else, would look at the severity of the penalty. I would hope—at least on speed limits—that you would repeal it. I think the States can handle that and there is no reason to have that 10 percent penalty. That is the biggest one. That is the biggest contention amongst the States. It is the one your constituents would be most interested in.

Then the other ones—I think it would be appropriate to look at the severity of the penalty and the objectives. You are looking at Federal interstates. Every State has weight classifications, for example for their roads and highways. Does it make sense to have uniformity as far as for trucks on interstate highways? Possibly. What is the penalty for noncompliance? I don't know.

Senator LAUTENBERG. There is a change in attitude.

Mr. Chairman, you hit it on the head. With all due respect to my colleagues here, I don't think that all motorcycle riders are bad guys or bad people or derelict or some of the characteristics you suggested here. I rode a motorcycle and I liked it. The problem is that my kids holler.

[Laughter.]

Senator LAUTENBERG. But the fact of the matter is that though they are taxpayers, when they have lingering illnesses or lingering injuries, it costs far beyond the contribution that is being made by any single class of people. I think for the committee's benefit, Mr. Chairman, that we ought to assemble the statistics that relate to motorcycle injuries, how severe, and whether there is a difference in the States—that information is readily available—to see what it is before we come to a conclusion.

Senator CHAFEE. Senator Nickles, the 21-year-old drinking age has a 10 percent penalty without the money going to anything else. As you know, in the motorcycle bill, it requires that the money go into safety training. States don't lose the money totally. But it goes in an area where they may not want it. In the mandatory drinking age, they lose the 10 percent.

Do you think we should repeal the mandatory drinking requirement?

Senator NICKLES. We should do some——

Senator CHAFEE. I am sorry. I worded it wrong. It is not a mandatory drinking age.

[Laughter.]

Senator NICKLES. I would think we should look seriously at repealing or modifying the penalty. I think the penalty is too high. I can see some merit in having the uniform because you do get into problems in an area between D.C., Virginia, Maryland, and so on, because I have wrestled with that one. I know in my State I live very close to Kansas. We had a different age in Kansas and many of us spent a lot of time running back and forth to Kansas.

But I wasn't aware that there was a 10 percent financial penalty. I think that is excessive. I think we should give great deference to the States and we have been far too mandatory from the Federal side to date.

Senator LAUTENBERG. I think you ought to determine cost per life and let that be the argument.

Senator WARNER. The Chair will reconvene this panel as soon as the Chair and others return.

[Recess.]

Senator WARNER. The hearing will come to order. We will now receive the testimony from panel one, Mr. Marshall Moore, director of the North Dakota Department of Transportation.

Senator Graham.

Senator GRAHAM. Thank you very much, Mr. Chairman.

I would like to introduce Mr. Frank Carlile, who is the Assistant Secretary for Transportation Planning of the Florida Department of Transportation. Mr. Carlile has spent 23 years of his professional life as a civil engineer serving the people of Florida in the Department of Transportation. He has had extensive experience with the issues that we are going to be discussing. He also serves as the Governor's highway safety representative, so he has looked at this issue from the perspective of safety to the motoring public as well as the provision of appropriate highway facilities for that public.

I am very pleased that you invited Mr. Carlile to speak with us and I am certain that his testimony will inform our judgment.

Senator WARNER. Thank you very much, Senator.

Mr. Moore, would you kindly lead off? And please be kind enough to give a little of your background and training so that we can gnaw on that expertise as we evaluate your testimony.

STATEMENT OF MARSHALL MOORE, DIRECTOR, NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Mr. MOORE. Mr. Chairman and members of the subcommittee, I am Marshall Moore, the director and CAO of the North Dakota Department of Transportation. To give you just a little of my background, in 1955, 40 years ago, I started as an engineer with the Wisconsin State Department of Transportation at the onset of the Eisenhower Interstate Program and worked in design. So although I traversed a few other things in between, transportation has been a theme all of my life. I spent 5 years in the Air Force. I also spent 30 years as a private consulting engineer working in the engineering field dealing with transportation. I spent 3 years as the director of Farmer's Home Administration in North Dakota and am now the

director of transportation. I am a registered professional engineer and certainly have engineering background—and I also spent 8 years as a State legislator in North Dakota.

Senator WARNER. Thank you very much.

Mr. MOORE. I appear today on behalf of my own State.

Senator WARNER. We will place in the record your entire statement. And if you will note these lights, there is a 5-minute time limit that we ask of our witnesses.

Mr. MOORE. Mr. Chairman, I will certainly try to stay within that limit.

Senator WARNER. Thank you.

Mr. MOORE. Mr. Chairman, I appear today on behalf of my own State and also the States of Idaho, Montana, South Dakota, and Wyoming.

At the outset, let me commend two members of the subcommittee, Senator Baucus and Senator Kempthorne, who represent States in our five-State group. We appreciate their leadership in ensuring that our Nation's transportation system and laws are effective and fair to our region and also to the Nation.

I certainly agree with Senator Baucus' statement this morning on the management systems and will elaborate a little more on that.

I agree certainly with your statement this morning, Mr. Chairman, to give more flexibility to the States and we thank you. Mr. Chairman, for your work in moving the National Highway System legislation forward.

Senator WARNER. Could you document for the record the authority you have to speak on behalf of the other States?

Mr. MOORE. All the States have reviewed the written testimony and have agreed on that written testimony. I am excerpting from that written testimony, so that our five States are in full agreement with the statements I will be making this morning.

Senator WARNER. I just wish to have that documentation as to how all five are in agreement with your testimony.

Mr. MOORE. Yes, sir.

Our testimony will focus on three points this morning. First, we strongly support passage of the National Highway System—and this, of course, is our first priority. Second, we also support full funding of ISTEA and the Highway Program. These two issues are addressed in detail in our written statement. I would like to spend the time I have this morning discussing the third issue, which is the issue of burdensome Federal regulations.

Now is the time to reduce those regulations and emphasize services, giving States more freedom in implementing the program and projects today. There are simply too many detailed requirements.

I would first like to address the management systems, as Senator Baucus mentioned this morning. There are six of those—pavement, bridge, safety, congestion, public transportation, intermodal—and the requirement of ISTEA requires each State to develop these systems. Our five States are all large in area, small in population. We all have small departments of transportation. We think we are efficient and spend our time productively, but certainly when we look at a congestion management system in my State, I think I could sit with each of you and in 5 minutes tell where the 5 places we

might have congestion might be, and that is about it for congestion management. So to spend a lot of time on that effort seems out of line. Many of the other management systems are similar.

I would hope that we could look at having those management systems voluntary or at least have States opt out on those that are not pertinent to their State.

Crumb rubber—certainly the issue of disposal of tires is a viable and important issue. But mandating it for use in highway pavements when it is not proven is probably not a good idea. The cost is higher than it is if we use the other asphalts we have. Certainly I think each State, from an engineering standpoint, should choose the material based on our weather conditions and soil conditions. That has not been proven yet with crumb rubber.

Two of our States, Idaho and Montana, have had projects that failed. And even though the initial cost was higher, they are now paying more to repair and rehab those.

Senator WARNER. Was that a technical failure?

Mr. MOORE. I am not familiar with the details, but certainly we can supply the committee with the details.

Senator WARNER. When you say that they failed, I would like to know for what reasons and who made the judgment that it failed.

I am sorry to interrupt you, but I think it is very important.

We will allow you another minute or two.

Mr. MOORE. Mr. Chairman, I don't think I can get into the details of failure, but it was substantial failure to the point where they had to go back and repair them. We have written documentation in the testimony to that effect.

In that area, it is more expensive and it is not proven. Our States are small and we don't have the staffs to test and bring that technology forward.

As Senator Bond mentioned, there are alternatives. In Missouri, they are burning it in a power plant and the coal gasification plant in North Dakota has done a test burn and they think they can effectively use it without any effective change in the clean air emissions from the stack. This is a plant that converts lignite into gas. We strongly believe that this regulation should be resolved.

I will mention transportation enhancement projects just briefly and the fact that this broadens a mandate to the States to use some of their highway moneys on untraditional uses in highways—bike paths, historic sites, access to historic sites. We think, particularly in this form of aid, that the burdensome regulations that go with it for the small projects that we bring forth in our rural States—those regulations should be reduced or substantially changed.

In conclusion, Mr. Chairman, you are right to pursue prompt passage of the National Highway System. We want to help you accomplish that task quickly. As to budgetary issues, we know they are difficult, but the highway program deserves support. It is the only program that was supported with any tax increase in my State during this legislative session. It is user-financed and provides real benefits to nearly everyone.

Finally, we urge you to seize the opportunity presented by today's broad consensus that our Nation should cut back on rules and regulations. I have spoken on only a few of the issues mentioned

in our written testimony. We urge you to pass some clear provisions reducing Federal requirements.

That completes my statement, Mr. Chairman. I thank you and will be happy to respond to questions.

Senator WARNER. Thank you, Mr. Moore.

Mr. Carlile.

STATEMENT OF FRANK CARLILE, ASSISTANT SECRETARY FOR TRANSPORTATION POLICY, FLORIDA DEPARTMENT OF TRANSPORTATION

Mr. CARLILE. Thank you, Mr. Chairman and members of the committee.

Senator Graham, I appreciate the kind introduction on my behalf. It is indeed a privilege to be able to be here today and speak to the committee on several important transportation issues.

At the request of the committee, I will briefly address the National Highway System, the ground tire rubber issue, and the seat belt/motorcycle helmet requirements of ISTEA. I promise to stay within the 5-minute requirement.

Florida has long been supportive of the concept of a National Highway System. In fact, Florida DOT Secretary Ben Watts has already testified before the full Environment and Public Works Committee in favor of a national system of highways. What is interesting is that he did that back in May 1991.

Testifying prior to the enactment of ISTEA, Secretary Watts said, "There should be a continued national interest in an identified national network of highways." The benefits of a National Highway System have become more obvious, not less, in the nearly 4 years since Secretary Watts made his comments before the full committee. The Florida DOT urges Congress to move swiftly and enact legislation designating the National Highway System.

I am pleased to share the Department's experiences with rubberized asphalt. Each year, as Senator Chafee pointed out, Americans dispose of about 250 million tires. Florida alone generates about 10 million tires annually, which is close to the one tire per person that Senator Chafee indicated.

As the mountains of waste tires grow, so do the environmental problems. We believe that the Florida DOT has been a leader and has played a leading role in recycling waste tires. We did some initial research back in the late 1970's and then in 1988 the Florida Legislature directed the Department to look at the use of several waste products, including tires, for possible use in road building. That legislation only required that we look at the various uses to determine if they were feasible, practical, and of benefit.

Our research indicates that using scrap tires on Florida highways helps the environment, but it also improves the roads. Asphalt modified with ground tire rubber can be used beneath the pavement to prevent the spread of cracking and serve as a moisture barrier, which has been a problem with some pavements in Florida. Applying rubberized asphalt to the driving surface of roads increases pavement durability and reduces wear, therefore extending the life of the pavement. This results in a longer-lasting road that requires less maintenance.

Since January 1994, based on our research which included a number of experimental projects around the State, we have specified the use of ground tire rubber in all major asphalt paving and major construction projects. As a result, we expect to recycle about 10,000 tons of waste tire every year. Recycled rubber may actually extend the life of the road by up to 25 percent.

The Florida DOT's recycled rubber program is an environmental and transportation success. Simply put, we think that recycling tires in the construction of roads is a logical solution to a very real problem.

One final point I would make on this issue is that should Congress decide to modify the ground tire rubber provisions of ISTEA, we strongly recommend that States be given the option of using recycled tires in federally funded projects if they so desire.

Finally, I want to briefly address the highway safety mandates, specifically the motorcycle helmet and seat belt requirements of section 153 of ISTEA. In general, the Florida DOT believes that such issues are best addressed by the individual States. The seat belt and motorcycle helmet provisions of ISTEA are a good example.

Florida has long recognized the benefits in reducing injuries and fatalities of both seat belts and helmets. We have had a helmet law for over 25 years, I think. I know we had it when I was in college and riding a motorcycle. The seat belt law I think has been around for about 10 years. The Florida Legislature, prior to ISTEA, had already addressed both requirements and compliance was therefore not a problem in our State.

Ironically, however, the incentive grants that are available to States that are in compliance with the requirements is of no benefit to a donor State such as Florida since any funds received are deducted from the State's minimum allocation funds the next year.

I would just close by saying that safety is the No. 1 priority of the Florida Department of Transportation. I would suspect that that is the case with all other States. But safety needs and opportunities can vary significantly from State to State. Each State should be allowed to address their safety needs in the manner best suited to their situation.

Again, I appreciate the opportunity to be here and will be happy to address any questions.

Senator WARNER. Thank you very much.

I want to be expeditious in questions, and will therefore only use a few.

Would Florida likely continue the use of crumb rubber voluntarily if we made some changes in the law?

Mr. CARLILE. We certainly would. That is our strongest recommendation. In general, we do not favor mandates, even with ground tire rubber. But we see very good benefits from our program. Our concern would be that if indeed the provisions were modified that at least allow us to do so with Federal participation in those projects that use ground tire rubber.

Senator WARNER. Speaking only for myself, as I study a voluminous amount of material associated with this crumb rubber issue, it seems to me that people of good intention are on both sides of this issue. As one who had some very basic training in engineering

many, many years ago—and now exceedingly rusty—I am still trying to go back and apply my fragmented recollection about the ability to combine different substances to perform a specific mission, like surfacing, and the coefficient of expansion—all those variables that enter into the engineering.

Looking just at the engineering, to what extent do you think the variations in climate are an issue? There is a clear differentiation between the climate in your State and the climate in your State, Mr. Moore.

Mr. MOORE. Mr. Chairman, certainly we think there could be a correlation, but I think the jury is out yet to prove that that is the correlation. Certainly from our State, in looking at any new product and introducing it, we would like to have a comfort level before we introduce that to a project so that we know it will be positive. We think mandating any material into a thing is a concern, unless we have the technical background in some long-term tests to indicate that it works well. Spending extra money is not something we have in our budget to this point.

Senator WARNER. It seems to me, in fairness, until there is a sufficient weight of engineering data to support the use of crumb rubber, it seems to me that Congress ought to withhold its mandate. That is my feeling. I am trying to search as to whether people think there is a data base that justifies the action of Congress.

Do you have any further comments, Mr. Carlile?

Mr. CARLILE. Yes, sir, Mr. Chairman. I think it's a good point, and I would certainly stress that you cannot necessarily mandate a particular road material nationwide. The climate has an impact, geology maybe more so because your source of aggregates can have an impact on it. We don't have deicing salts in Florida, and there are other factors that come into play. I think you have to look at each geographic region.

Senator WARNER. Thank you very much.

Senator Baucus.

Senator BAUCUS. Thank you.

In respect to crumb rubber, Mr. Carlile, do you think the Federal crumb rubber provisions should continue? After all, Florida uses it. Or do you think it is better to let States have crumb rubber programs and utilize rubber where they want to and be allowed to use it within the general standards applicable under the highway construction program?

Mr. CARLILE. I would not support a continued mandate, due to the general concern for mandates. But I think each State should be allowed to make that determination, again, with Federal participation if it is beneficial.

Senator BAUCUS. What about expanding the use—I don't know whether it is required or not required—other alternative uses of crumb rubber such as embankment, fill, or other uses other than surfacing.

Mr. Moore.

Mr. MOORE. Certainly I think there are some things there that we can look at in those areas. I think there are some alternatives that can be looked into in using those tires. Certainly in our State just bringing them all to one point because of a rural and small

population becomes a very high-cost factor just to get them to one location.

Senator BAUCUS. Would you support the approach suggested, namely if States want to use crumb rubber they ought to be able to use it?

Mr. MOORE. Absolutely.

Senator BAUCUS. Mr. Moore, could you just name for us the top five most burdensome regulations or sanctions that you feel we should address? There is a long list, but please just highlight the ones you think are the most objectionable.

Mr. MOORE. I will see if I can come up with five off the top of my head. Certainly, the management systems—two or three of those are burdensome to the small States with small staffs in bringing about not only developing the management system, but continuing to keep those management systems up over time. I think some of the other regulations that deal with safety—and I am not talking about the safety issue this morning of helmets and things, but I am talking about some of the safety issues that are promulgated in rules in the Department where guard rails are imposed on us.

I could give you an example of a project that came across my desk yesterday in Bismarck that is to reseal a road because the skid tests show us that it is slippery and dangerous. The cost is $300,000 but the safety requirements implied to change the median guard rail is $400,000. I think those kinds of things set our programs in the wrong scale of making choices.

Certainly, the crumb rubber issue is an issue that we would hope would be clarified so that we don't have to—we will spend time in trying to find a solution, but we don't think the solution is mandating us to use it.

The other areas are the regulations that are most burdensome to small States.

Senator BAUCUS. Those are all good suggestions. In fact, I agree that the ones you named are so burdensome that we have to address them.

This basically gets down to States' rights, trying to draw the line between what States should be able to do on their own versus what the Federal Government thinks the States should do.

Do you feel the surfacing standards presently required by DOT are fair, or not fair? Wrong, or not wrong? That is, how do you build a highway? How do you build an interstate? How do you build a primary road? Or how do you maintain it?

One can argue that we should let each State build its own highway the way it wants to and others say that this is the interstate system and the primary system and are highways all Americans use.

Mr. MOORE. I think there are certainly some reasons why we should agree on some standards on some of the roads, but I think we may be going beyond some of the roads. If we designate the National Highway System, maybe we should talk about some standards on the National Highway System, but then leave it up to the States beyond that. The pavement management system requires me to look at a system off our highway system, also our Federal-Aid secondary roads, and that deal with the counties and in some

cases the cities. They want me to develop a pavement management system on some roads that are gravel-surfaced.

Senator BAUCUS. When you develop a management system mandated by the Federal Government, does that get to surfacing standards as well?

Mr. MOORE. It will get to how we manage those surfaces and that will go on——

Senator BAUCUS. Can you give us an example?

Mr. MOORE. Certainly, in managing our pavements, it will set forth schedules as to when pavements need to be improved and then how they will be able to be improved.

Senator BAUCUS. You are suggesting that in some parts of the country that might make less sense that in some other parts of the country. Is that correct?

Mr. MOORE. That is correct. In other words, I think it is—and certainly that is a difficulty thing on your part to do, to set out anything that deals with all 50 States because there are things where we are alike but there are many things where certainly things are much different. To get through those things, we just can't go through all the same steps on a gravel road that we do on a paved road.

Senator BAUCUS. I am getting a little signal here that my time has expired.

Thank you very much.

Senator WARNER. We have three panels and this is the first of three. I would hope the members can condense their questions.

Senator Chafee.

Senator CHAFEE. I will take no more than 2 minutes.

First, I want to commend you, Mr. Carlile, for this very interesting brochure that the Department of Transportation in Florida has put out wherein you say, "When used in the driving surface of the road, also known as the friction course, rubberized asphalt improves the durability and reduces pavement wear."

What we have here is a traditional problem. Every State comes to us and wants additional highway money and the Federal Government raises the money. Is it the individual citizen's money? Sure, it is. But we are the collection agency. Then we distribute it. The question is, When we distribute it, can we levy any requirement? Are we just giving back to the States what is really theirs? Should we stay out of it? Or are we entitled to say, "We are interested in the drinking age, and we know there is a direct correlation between drinking and driving and accidents. Can we do anything about it?" Or do we not care if 17-year-olds can get all the liquor they want and that is no concern of ours?

Well, we have indicated the concern. We have indicated the concern that we have a tremendous national problem and we are going to have it. I think it is a disaster waiting to happen—these asphalt tires piled up all over the place. So this is a very modest step. First of all, it requires that the Secretary can step in and set aside the provisions if he determines that the manufacture, application, and use of asphalt pavement containing this increases the threat to human health or the environment.

Have they dealt with the recycling problem? One of the problems is that if you put this rubberized asphalt in an asphalt road and

then tear it up and recycle it, does that make a problem? We are going to hear testimony on this.

So we are confronted with that traditional conflict, if you would. I believe we are entitled to levy some requirements. We do the collection. It isn't just everybody going their own way and having any kind of sign they want on the interstate. We have uniformity. We have it for various reasons. But that is a philosophical difference that we will be struggling with that will not be concluded today.

Thank you very much.

Senator WARNER. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

I hope that we will have an opportunity to continue the very fundamental questions that Senator Chafee has just been outlining because I think it raises the question of what the Federal Government's role is in highway planning, construction, and maintenance in the post-interstate era. I would hope that would become a central point of discussion as we consider what will be our future role.

But I would like to focus on a comment Mr. Carlile made which will be of particular interest to about half the States in the country who fall in that category of being donor States.

What are the current incentives available to non-donor States which utilizes crumb rubber in their highway system, which are not available to the half of the States that are donor States?

Mr. CARLILE. For the ground tire rubber I am not sure that issue applies. I was speaking to the seat belt and helmet law requirement and the incentive there. There were grant funds made available for those that passed the law to use in safety and education and enforcement of the seat belt and helmet law. Florida was already in compliance and eligible for the funds, which we declined to accept because they just came out of our minimum allocation funds. It was just allowing us to use funds we already had.

Senator GRAHAM. So you are saying that if you are a donor State—which means that you get back less money than you contribute—and you qualify for the so-called minimum allocation funds that assure you that you will not fall below a percentage of your return, that that renders you ineligible for the incentive grants that are available to States that are already getting a higher proportion of Federal funds relative to the amount they sent?

Mr. CARLILE. That is correct.

Senator GRAHAM. Beside the examples in the safety area, are there any other areas in which donor States are disqualified from participating in Federal grants because of their donor status?

Mr. CARLILE. I have no specific ones off the top of my head, but any of those that allow discretionary funding grants, unless there is specific language in the appropriations to dissuade that, that would occur. Florida was at one time one of the biggest capturers of discretionary funds. But because of the problem of the donor State situation and the impact on minimum allocations, we are much more conservative in that approach. But there are other programs that would affect that, I just don't have the specifics. But I would be glad to provide that to you.

Senator GRAHAM. So the effect of this combination is to remove whatever incentives the bonus funds for engaging in safety activities were intended to create for the half of the States that are donor States. I think you are also suggesting that it creates some disincentives for the kind of aggressive management of the program that would make a State a prime candidate to receive discretionary funds.

Mr. CARLILE. Yes, sir. Again, we would prefer incentive-based programs to mandates. If you are going to have the incentives, they need to be true incentives for all States whether they are donor States or recipient States.

Senator GRAHAM. You end up having those States which are already punished because they get back a smaller share than they send to Washington, DC, to be redistributed, then they get penalized again because they can't participate effectively in competition for discretionary funds. They get penalized further because their States lose the incentive for the most aggressive, effective management to the degree that additional Federal funds are part of the incentive of those high levels.

Senator WARNER. As the Senator from Florida knows, you and I have stood side by side in fighting that issue for some time.

Senator GRAHAM. I hope this testimony today will give further evidence to the fact that we need to win it the next time we have this debate.

Senator WARNER. Thank you, Senator.

Senator Smith.

Senator SMITH. Mr. Chairman, I will be very brief. I know you want to move to the next panel.

Mr. Moore, have the States that you are representing here today been penalized under the seat belt/helmet mandate.

Mr. MOORE. Yes, Senator Smith. I think all five States have the seat belt but do not have the helmet law. I know in our State, we had $1.2 million moved from construction over into safety.

Senator SMITH. So you have had the money moved into the safety program. Do your States need that money in the safety program?

Mr. MOORE. I think this year the $1.2 million we can use viably. I think in the next fiscal year when it doubles to $2.4 million, I can't even imagine that I could find a way to use it effectively.

Senator SMITH. So if I understand this correctly, you would find yourself in a position in your States where money would be transferred from highway construction or improvement or bridge repairs into a safety program—and let's say you get to the point where you can't use it—you just don't know what you can do with it unless you hire some more teachers or instructors—let's say you don't want to do that. What happens to the money at that point?

Mr. MOORE. I would imagine that will remain in the Federal trust fund. If we don't use those Federal funds for that year, they will eventually be dropped off.

Senator SMITH. So you would not be able to use that money for——

Mr. MOORE. ISTEA has a couple of years yet to run, and I don't think I would want to build any large programs within that short a span. I just don't think I could use those dollars effectively.

Senator SMITH. So you would be in a position, under this mandate, essentially—if this thing played out the way you just responded where moneys would be allocated to your State for highway repair and/or safety under ISTEA—you would then have some of that money taken away from repairs and/or construction and allocated to safety programs, which you don't need, which would mean that you would either have it stay there or you would build safety programs that you didn't need and essentially neglect repair of a bridge, pot hole, or something else that might cause some type of casualty on the highway. Is that correct?

Mr. MOORE. Yes. We have 630,000 people in our State. Transferring $2 million to safety education seems a little inappropriate. I would rather use it for K–12 if I could.

Senator SMITH. Mr. Chairman, that makes a pretty strong point from the people that administer programs in these States that it doesn't make a heck of a lot of sense. That is something we ought to look at.

I appreciate your spending your time with us this morning.

Senator WARNER. This is an important piece of testimony. Each of these witnesses have travelled long distances to come and represent their constituencies. I thank you. Have a safe journey back home.

Thank you very much.

Senator WARNER. We will now have the second panel. This will be a panel primarily concerning motorcycle helmet laws.

We will have the Honorable William Enos, Majority Whip, Rhode Island State Senate; the Honorable Sherman A. Packard, Representative, New Hampshire House of Representatives; the Honorable John Cullerton, Senator, Illinois State Senate; and Dr. Mark L. Rosenberg, Director, Division of Injury Control, Centers for Disease Control.

I thank each of you for undertaking journeys to come down and advise the Senate in respect to your views on these issues.

Senator Enos, we will wait for Senator Chafee to return. He has stepped out momentarily.

Perhaps you would like to lead off, Senator Smith, and introduce Sherman A. Packard, the representative.

Senator SMITH. Thank you very much, Mr. Chairman. I would appreciate doing that.

I want to just say to the panel that due to a commitment at 11:30 which I simply cannot ignore, I am going to have to leave. I apologize to you for that, but I do want to say that in New Hampshire, Mr. Chairman, our representatives—like Representative Packard here—represent less than 3,000 people. We have 400 members in the Legislature. It is a true democracy. I guess second largest Legislature only to the U.S. House of Representatives. So when we here from witnesses like Mr. Packard, we hear directly from the people that he represents.

In fact, Warren Rudman used to tell a joke that in New Hampshire the representative had to give up his seat because his constituent died.

[Laughter.]

Senator SMITH. It is not quite like that, but this is real democracy. I would hope the witnesses would address one point, and that

is the issue of the amount of dollars—for example, in New Hampshire, we're going to loss $800,000.

Senator WARNER. Why don't you address that issue with a question right now?

Senator SMITH. Well, I will just put it out and I know Mr. Packard is prepared to respond to it, and perhaps the other witnesses as well.

In October, as in 1994, we will lose $800,000. As I am sure he can respond to, that is a lot of pot hole repairs and a lot of bridge repairs in a State like New Hampshire and some of those rural roads. Just to simply lose that money because it has to be put into a safety program, which we don't need the money for—we have a safety program. That is going to go to $1.6 million. I know you will be responding to that.

Welcome, Representative Packard.

Again, I apologize to all the witnesses, it is just one of those things that I can't control here this morning.

Senator WARNER. Thank you very much, Senator Smith. You have spent a lot of time on this issue and your contribution will weigh heavily in the final decision by this subcommittee, the full committee, and then the Senate.

Why don't we lead off with you, Representative Packard?

Mr. PACKARD. Thank you, Mr. Chairman.

Senator WARNER. I am trying to sit here and think. I have 6 million residents of Virginia for whom I try and render equal and fair and objective service, and you have 3,000?

Mr. PACKARD. Technically, the way our Legislature is set up, Mr. Chairman, even though I myself represent a district that has 20,000 people in it, we have a number of representatives representing that district.

Senator WARNER. That is very interesting.

Mr. PACKARD. We are truly a citizen Legislature. And our pay goes along with it. It is $100 a year.

Senator WARNER. Then you have my attention.

[Laughter.]

Senator WARNER. I hope that each of our colleagues here from the various legislative bodies will also put their salaries in the record this morning.

[Laughter.]

Senator WARNER. Representative Packard.

STATEMENT OF HON. SHERMAN A. PACKARD, NEW HAMPSHIRE STATE REPRESENTATIVE

Mr. PACKARD. Thank you, Mr. Chairman.

For the record, my name is Sherman Packard. I am a State representative in the New Hampshire House of Representatives. I also serve on the Transportation Task Force of the American Legislative Exchange Council. Just this past convention we had in Florida, the Transportation Task Force—which I have submitted in my written testimony—did pass a resolution unanimously asking that this section be pulled out of the ISTEA. As I think you must know, ALEC does represent a number of State legislators across the country.

Senator WARNER. To clarify, is that helmets as well as seat belts?

Mr. PACKARD. Yes, sir.

Senator WARNER. How many persons were attending that conference? What was the composition?

Mr. PACKARD. ALEC is a group of State senators and representatives from across the country. We have over 2,000 members. They have task forces on a number of different things. As I said, I do serve on the Transportation Task Force. We have 114 members in the full task force. There were about 35 there at the time and we did pass a resolution unanimously asking Congress to take these sanctions out of the ISTEA provisions.

Senator WARNER. That was adopted by the body as a whole?

Mr. PACKARD. Yes, it was.

Senator WARNER. And the conference then address a broad range of legislative issues, not just this?

Mr. PACKARD. Oh, yes. They have a task forces on every one of the legislative issues.

Senator WARNER. Fine. I just wanted to get the framework on this.

Mr. PACKARD. Going back to what I started to say, I would like to press the issue. I have heard a lot today about the helmet and the seat belt as the object. That is not why I am here today. My issue on whether I favor or disfavor a law mandating helmets or seat belts is not the issue. The reason I came here today is that I feel that this issue should be able to be decided by the State legislatures in this country without the threat of Federal sanctions and money being moved.

In many conditions, when we have this threat of Federal money being removed for one reason or another—and it isn't just in the transportation issues—we get the issue before us and all of a sudden it isn't the issue that we are discussing anymore, it becomes the issue of how much money we are going to lose. We lose the context of the issue itself.

So when we start discussing it and we discuss it in committee, subcommittee, or on the floor, the first question that comes up is, How much money is this going to cost us if we don't pass this issue? We lose the whole context of what we're talking about.

I think that is an injustice in most cases because we don't get to discuss the quality of the issue itself. That is why I am so strongly in favor of these sanctions being lifted so that when the issue does become before us, we can discuss the proponents and opponents of the issue and the we can discuss the quality of the issue itself.

I don't think there is one of my colleagues in the State House that doesn't feel that motorcycle helmets and seat belts are a safety issue. There isn't one of us that will disagree with that. But let us discuss the issue and let us decide the issue on the merits of the issue, and not because we're going to have money transferred.

As Senator Smith said, we are going to be losing approximately $875,000 being transferred over to our highway safety agency. Having served on the Transportation Committee in New Hampshire, I have gone out and done some literal inspections with our Transportation Department inspecting some of our bridges in New Hampshire. Some of them are 40, 50, and 60 years old that we haven't addressed. I dare say that if some of you got underneath the

bridges like I did, you wouldn't drive over them. Some of you may not even walk over them.

We desperately need that money to repair those bridges and the pot holes. I think it is really a shame that we have to take that and put it into the highway safety agency to maybe make up bumper stickers or pamphlets or something like this when we have that drastic need out there to put this money toward the reconstruction of the bridges and highways.

Senator WARNER. Your arguments are very persuasive, but are there any safety issues which justify continued Federal control by State control?

Mr. PACKARD. I would have to say, Mr. Chairman, that there are some issues that would probably require some Federal intervention. We would have to sit down and discuss the level of Federal intervention on each particular issue. I don't think we can categorically say that we're going to take all issues and impose certain penalties on them. I think we ought to take it issue by issue. Referring to maybe the interstate highway system itself, maybe the Federal Government should put some restrictions on the roads that are being built from State to State. Maybe that is a legitimate concern.

But on certain issues, it is not an interstate issue. It is a State issue that can be determined by each State.

Senator WARNER. If you could reflect further on that and perhaps provide for the record any additional thoughts that come to mind.

Mr. PACKARD. Certainly.

Senator WARNER. Senator Chafee, would you like to make an introduction?

Senator CHAFEE. We have a very distinguished member of the Rhode Island State legislature here. Mr. Enos is Majority Whip in our State Senate. We have 50 State Senators. So we have one-fiftieth of the Rhode Island State Senators here.

We are glad you are here, Senator.

Mr. ENOS. Thank you, Senator.

You talked on pay earlier, with New Hampshire legislators at $100. I have been in the Senate for 9 years. This is my ninth year. This is the first year that we are really going to get a pay, but we did get a little more than my colleague from New Hampshire. We made $300 a year.

Senator WARNER. Do you think the citizens get what they pay for?

Mr. ENOS. I would like to think not, but sometimes I wonder, Mr. Chairman.

STATEMENT OF HON. WILLIAM ENOS, RHODE ISLAND STATE SENATOR

Mr. ENOS. Mr. Chairman, Chairman Chafee, and members of the committee, first of all let me thank you for the opportunity to address the committee on an issue of growing concern. The potential transfer of hundreds of thousands of dollars in ISTEA funds from highway construction to highway safety programs has far-reaching implications, not only for Rhode Islanders, but for all your constituents.

Rhode Island is not the only State which has failed to pass a mandatory motorcycle helmet law since the ISTEA was enacted.

There are 25 other States which will have highway construction funds withheld in fiscal year 1995, for a total of more than $56 million. In Rhode Island, where the New England climate requires a consistent program of road repairs and reconstruction, more than $600,000 will be transferred from highway construction accounts into highway safety accounts. For a State of less than 1 million people, $600,000 is substantial.

To illustrate this point, the total fiscal year 1995 budget of the Governor's Office on Highway Safety was $137,000, an amount which already allows the office to serve the State effectively and efficiently.

There is a clear need for Rhode Island to continue to support highway construction and reconstruction activities. As technology, design, and education have steadily improved traffic injuries and fatalities—including those related to motorcycles—have declined. In the case of Rhode Island, the old maxim of "if it isn't broken, don't fix it" applies. There is no evidence to suggest that transferring funds from highway construction to highway safety accounts will increase the effectiveness of safety programs. Instead of offering an incentive for attaining a goal, this requirement forces one particular system upon all the States.

The 10th Amendment of the Constitution provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." In a year when the new Congress has emphasized change and has stressed the importance of becoming less involved in micromanagement, the fundamental intent of this clause seems to be wresting control of traffic laws away from the States.

Furthermore, although section 153 of title 23 USC does not mandate motorcycle helmet laws, it strongly suggests the implementation of such laws. In a year when unfunded mandates are a target of Federal legislation, it may be said that section 153 is an unfunded suggestion.

Section 153 also has a negative economic impact on the State of Rhode Island. The Federal Highway Administration has stated that every $1 billion in highway construction moneys creates 60,000 jobs. Although the funding is not being rescinded, the transfer of funds will result in the loss of approximately 40 construction jobs in the State of Rhode Island. These are difficult economic times and Rhode Island has been hit hard by defense cutbacks, as well as the national recession. If each job paid $30,000, the impact on the State of Rhode Island's economy could be greater than $1.2 million.

I am not here merely to criticize the policy choices which have been made. I have also come to discuss some of the reasons why mandatory motorcycle helmet laws are not the only effective safety solution. Please take a moment to look at the attached graph in the back of the packet. It is entitled "Rhode Island Motorcycle Safety Since 1969". As you can see from the figure, the number of motorcycle riders in Rhode Island has increased dramatically since the late 1960's, as represented by the grey bars.

If you examine the figure, you will also note that the number of deaths related to motorcycle accidents has declined significantly in proportion to the number of motorcycle riders on the road. In 1976,

the last year that the motorcycle helmet law was in effect, there was more than 1 death per ever thousand riders. In 1994, there were less than one-half death per thousand riders.

Some proponents of motorcycle helmet laws maintain that riders who choose not to wear helmets and who are involved in accidents are a fiscal burden that the taxpayers should not have to bear. However, upon research, Medicaid does not specify how a patient sustained a critical injury. So there is no method to determine how much motorcycle-related injuries may be costing Rhode Island taxpayers.

Senator WARNER. Senator, let me just interrupt.

I am going to have to depart. Chairman Chafee is going to finish the hearing.

But there is one question in your testimony which I would find very helpful.

Have you talked with your colleagues? Is there any consensus in terms of the numbers in your Legislature as to their disposition on this issue?

Mr. ENOS. Mr. Chairman, we have defeated a helmet bill for the last 4 years in the General Assembly.

Senator WARNER. What has been the margin of the vote?

Mr. ENOS. In the Senate, I have to say that it has been a good margin. I would say a 30 to 20 margin.

Senator CHAFEE. Senator, has that come to the floor for a vote?

Mr. ENOS. It has, Senator. It was there last year.

Senator WARNER. And what happened on the floor?

Mr. ENOS. It was actually put back in committee. There was a question on the seat belt portion of the bill. We put it back to committee.

Senator WARNER. But in your testimony today, you are addressing both seat belts as well as helmets?

Mr. ENOS. That is correct, Mr. Chairman.

Senator WARNER. You represent that that vote reflects the thinking of your body of the Legislature?

Mr. ENOS. To date it has.

Senator WARNER. What about the other body?

Mr. ENOS. It has not come across. I know it has been introduced on the other side. We haven't seen it. I couldn't accurately answer to numbers in the House. I have enough trouble trying to count the Senate.

Senator WARNER. It is interesting that there is such a burning interest in one body and apparently not in the other.

Any explanation for that?

Mr. ENOS. I don't know if that is factual. Again, the bill has been introduced for many years in both chambers. We haven't seen it come to the Governor's desk as of yet.

Senator WARNER. Thank you, Senator.

Dr. Rosenberg.

Senator CHAFEE. I don't think the Senator quite finished, but we can put it in the record.

Why don't you summarize the last part, Senator.

Mr. ENOS. I talked to the surgeon who is the head of the Rhode Island General Hospital's head injury unit, Dr. Zutka. She stated

that there were 20 patients with head injuries in her unit, two of which were motorcycle-related and both involving alcohol.

As I sat here today and listened to the testimony before me, it seemed to have a common theme, which happened to be alcohol. I wonder if we are really emphasizing the penalties in the right category. I think our major problem with highway-related accidents are alcohol. I think that is where we should be putting our focus.

Thank you, Mr. Chairman.

Senator WARNER. Thank you, Senator.

Thank you Senator Cullerton for allowing the doctor to come in between this phalanx of State legislators.

STATEMENT OF MARK L. ROSENBERG, M.D., M.P.P., DIRECTOR, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL, ATLANTA, GA

Dr. ROSENBERG. Thank you, Mr. Chairman and Senator Chafee. It is a pleasure to be here. I have never been at a hearing run with such grace and dignity.

Senator WARNER. That is very thoughtful. I thought we had considerable banter here among old politicians, but you have endured it quite well.

Senator CHAFEE. It may be that he has never been to a hearing before.

[Laughter.]

Dr. ROSENBERG. I have been to a number of hearings. I am very impressed by this one.

Senator WARNER. Thank you. It is a subject, Doctor, of very grave concern. As I said, there are well-intentioned people on both sides. I think there is an honest dispute among the different views and it is predicated on not a preponderance of fact on either side.

Dr. ROSENBERG. Thank you, sir. That is what I would like to speak to. I would like to speak to the facts and to the data.

I am the director of the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention. I appreciate the invitation to speak here.

Senator WARNER. That is located in Atlanta, GA, which is an organization of national and international renown for their expertise.

Thank you.

Dr. ROSENBERG. Thank you.

I am happy to be able to bring a public health perspective to your deliberations on traffic safety measures. I will focus my remarks on what Senator Lautenberg asked for today: what do the data tell us.

Our center at CDC fills a unique niche. We look at injury, and in 1992 injury was the leading cause of death for people 1 to 44 throughout this country. I suspect this is also true for every single State. If safety is what it takes to prevent injuries, none of us is doing enough.

The Injury Center focuses on health outcomes and uses the public health approach by conducting surveillance to monitor trends in deaths, disabilities, and costs associated with injury. Information is one of our major products and it must be reliable.

We also conduct epidemiological studies to identify risk factors for injuries and high risk groups and work cooperatively with State health departments, universities, and community-based programs

to implement injury prevention measures and evaluate their impact.

In the last 30 years, this Nation has accomplished a modern-day miracle in preventing motor vehicle injuries and fatalities. Mr. Chairman, 240,000 lives have been saved on our highways. This progress resulted from a comprehensive approach to the problem and can largely be attributed to increases in safety belt use and motorcycle helmet use, reduction in drinking and driving, and improvements in roadway and vehicle design.

The extraordinary contributions of the National Highway Traffic Safety Administration have been instrumental in bringing about these changes, yet we have not been completely successful in this area. As we have heard today, motor vehicle deaths and injuries still account for about 41,000 deaths per year—an epidemic by any measure—and 4.1 million emergency department visits.

We can do better. Safety belts can help reduce this toll. Safety belts are widely recognized as effective in reducing fatalities and non-fatal injuries. Safety belt use laws ensure high levels of use.

Mandatory use laws for motorcycle helmets that apply to riders of all ages can also help us do better. In 1993, the National Highway Traffic Safety Administration estimated that helmets prevented 569 motorcyclist deaths and 271 additional lives would have been saved if all States had universal mandatory helmet laws.

Let me focus the remainder of my remarks on the issue of preventing head injury through motorcycle helmet use, because that is what helmets do. They prevent head injuries. At the risk of overstating the obvious, let me say that helmets are not designed to prevent injuries to arms, legs, chest, or abdomen. So if you want to see if helmets work and how helmet laws work, you must look at head injuries.

Let me make four points on head injuries and motorcycle helmets. First, motorcycle crashes take a great toll in lives. They result in very costly, disabling head injuries. In 1993, there were 2,444 deaths from motorcycle crashes, and most of these deaths occurred among young people between the ages of 18 to 24, resulting in the loss of many years of productive life.

Head injury is the leading cause of death in motorcycle crashes, and head injuries are involved in 53 percent of motorcycle-related deaths. A recent study in Wisconsin showed that unhelmeted motorcyclists were two times more likely to be hospitalized than helmeted riders. Unhelmeted riders' risk of brain injury was three times higher than helmeted riders and the risk of skull fracture was 4.5 times higher for the unhelmeted. In 1991, unhelmeted riders with head injuries generated $2.9 million in hospital charges in Wisconsin.

Second, data show that helmets make a difference. It is estimated that of those motorcycle fatalities due to head injuries, two-thirds could be prevented by using helmets. From 1984 through 1993, an estimated 6,400 motorcyclists were saved by wearing helmets. If all motorcycle operators and passengers had worn helmets during those years, it is estimated that approximately 5,700 additional lives would have been saved.

Researchers at UCLA conducted a CDC-funded study to evaluate the effect of the 1992 California motorcycle helmet law on crash fa-

talities and injuries. One year following the implementation of the law, motorcycle crash fatalities decreased by 37.5 percent and the motorcycle fatality rates per hundred thousand registered motorcyclists were reduced by 26.5 percent. Head injuries decreased significantly among fatally and non-fatally injured motorcyclists.

Third, motorcycle injuries are expensive to treat. Much of the costs are borne by public dollars. Health care costs are considerably lower for helmeted motorcyclists who sustain an injury.

In a recent population-based assessment of injuries to motorcycle crash victims who were hospitalized, CDC-funded researchers compared helmeted and non-helmeted riders. The total cost for all hospitalized unhelmeted riders was 66 percent greater than for hospitalized helmeted riders. It was $3.5 million without helmets versus $2 million for those with helmets. Average per patient cost of hospitalization was 35 percent higher for unhelmeted motorcyclists.

Other studies have shown that patients who wear helmets are less likely to suffer from a head injury and are less likely to need the resulting critical and intensive medical care. They also have shorter stays in the hospital and less frequent need for rehabilitation.

Fourth and finally, CDC supports the National Highway Traffic Safety Administration's comprehensive approach to licensing and education and mandatory use laws to increase helmet use and reduce motorcycle injuries. In States with mandatory laws, helmet use rates are 99 percent. We are not aware of any evidence that demonstrates that testing, licensing, or education alone leads to anywhere near the improvement in helmet use that mandatory laws produce. The most effective programs are comprehensive and include a mandatory helmet use law.

In a recent study conducted by our own researchers at CDC, we found that States with full helmet use laws reported about half the head injury death rates reported by States without such laws. This was true whether researchers calculated rates on the basis of population or motorcycle registrations.

In my written testimony I submitted a graph that shows the death rates based on motorcycle registrations. There were three lines there. The line on the bottom represents States with full laws. Every motorcyclist has to wear a helmet. The middle line represents States with no laws. Helmet use is voluntary. And the top line represents States with partial laws. Only people of a certain age are mandated to wear a helmet. These lines show that over the 8-year period of study, those States with full laws always had the lowest death rates. That is the bottom line.

States with partial laws did not fare much better than those States with no laws at all. It is easy to understand why partial laws are hard to enforce. Imagine a police officer trying to gauge the age of a motorcyclist speeding by. He just can't do it.

I hope this is helpful. What we are trying to point out is that there are data at your service that you can use to make the hard decisions. We think we can stand by our data. Our duty, again, is to provide you with data that are incontrovertible. The tough decisions about what laws to pass are yours.

Thank you.

Senator WARNER. Doctor, I am not sure that your expertise can address this question, but one of our colleagues, Senator Campbell, said that there is some evidence to show that the helmet has a degrading effect with regard to both hearing and sight and that could be considered a cause for accidents. Is this within the purview of any of your analysis?

Dr. ROSENBERG. No. Let me say first that there are some helmets that can interfere with visibility and helmets may interfere with some hearing. However, there is no evidence that I am aware of that helmet usage increases the rate of injury or the rate of crash when worn. I am not aware of any such data.

Senator WARNER. Thank you.

Gentlemen and ladies, I have to depart. Our distinguished chairman will continue this hearing.

I thank you, Mr. Chairman.

Senator CHAFEE [assuming the Chair]. Thank you, Mr. Chairman.

I am sorry that our colleagues aren't here because this is good testimony. Furthermore, we are going to have some testimony on the crumb rubber matter.

I would point this out, too, which is very interesting. The Motorcycle Association requires helmets in their sanctioned meets. For them to say on the one hand that this all ought to be voluntary and then require them seems to be contradictory to its testimony.

Senator Enos, I have here some documentation from the Rhode Island Medical Center where they have seven severely injured motorcycle riders unhelmeted. Three are in comas and one has—the date of admission to the hospital is 1983, 1987, 1983. There is one unhelmeted patient, a peripatetic. What is a peripatetic?

Dr. ROSENBERG. I believe the word is "peripateia," which means, weak in two limbs.

Senator CHAFEE. For some reason, this individual has been in the General Hospital in Rhode Island since 1974, an unhelmeted motorcyclist. Of the others, one has been there since 1976.

I might point out that our information here is that the cost per day per patient is $415 per day. Does that sound logical, doctor?

Dr. ROSENBERG. That is certainly in line with costs. Intensive Care Unit costs are twice or three times that per day.

Senator CHAFEE. Since he is in a coma, everything has to be cared for, obviously.

Senator Cullerton, we're glad you're here.

STATEMENT OF HON. JOHN CULLERTON, ILLINOIS STATE SENATOR

Mr. CULLERTON. Thank you very much, Mr. Chairman. I have great respect for your State, Senator. I ran for Congress myself last year and I imported my campaign manager from your State and he did a great job. It was not a successful race, but it wasn't because of his efforts, I can tell you.

I am a 17-year member of the Illinois State General Assembly. I have been the chief sponsor in our State of the child passenger safety law and the seat belt law which have passed and for the last 6 years have been the chief sponsor of the helmet law which has not passed. In fact, Illinois is one of only three States that has no

helmet law. I speak in favor of retaining the section 153 and Federal incentives for Illinois and for other States.

The reason for passing the helmet law—I think it has been stated well by the proponents. It is obvious. It saves lives and it saves taxpayers money. If you look at the experience in California, you see that the death rate has gone down once those laws have passed. The reductions in fatalities answer, in my opinion, the critics of helmet laws who say that helmets don't work.

Perhaps a stronger argument they raise is that the Government should not interfere with people's lives and tell them what to wear. This argument I believe is countered by the fact that the Government is intricately involved in paying for motorcycle crash victims. If they require helmet use, the cost will be decreased.

The Government does have a greater role to play in the areas of health and safety in my opinion. They say that we shouldn't tell people what to wear, yet no one would suggest that we not tell motorists who cannot see very well that they cannot wear glasses. Instead of their motto of "Let those who ride decide," I would propose that we say "Let those who pay have the say."

So the next question is, Why hasn't Illinois passed a helmet law and what role should the Federal Government have in the decision?

We had a helmet law back in 1968. It was because of Federal action, by the way, that it was passed. The death rate fell by 28 percent. But in our State, the law was declared unconstitutional. The death rate then jumped back up by 47 percent. After the Supreme Court overruled their earlier decision, we have introduced the motorcycle helmet legislation. By then, of course, the anti-helmet group ABATE was very active in campaigning against legislation by not only writing letters to legislators but also working in elections to support candidates who support their position, certainly something that is their right.

I am sure that they believe that his helmet law is probably the most important potential State legislation that they care about. On the other hand, groups that would logically be for a helmet law—like the medical society or insurance industry—were quite frankly concerned with other matters that affected them in a more direct manner.

Mr. Chairman, this year we passed a tort reform bill which the medical society campaigned for heavily. The insurance industry is interested in keeping their exemption from antitrust laws and they have not focused their attention on the helmet law the way the ABATE group has. They do not have the same motivation to lobby for the helmet law as these motorcycle groups have to lobby against it.

So even though there is no doubt in my mind that a motorcycle helmet law is something that would be favored by an overwhelming majority of the citizens in the State of Illinois, the mechanics of passing a law are such that the more vocal opponents have had their way in the General Assembly.

The Federal Government has played a critical role in enacting safety legislation throughout the years. The original helmet law would not have passed but for Federal action. We all know that the drinking age and seat belt legislation was passed in many States

because of Federal action. We have had experience that every time the Congress changes its mind—such as back in the 1970's—death and injury rates go back up. When Congress decided to take a more moderate approach in this important public health problem in 1991, you passed what I view as a very good law in section 153. It wasn't a sanction, but an incentive program. It redirects money from construction into safety programs where it is needed most.

It was a good law then and it is a better law now. Since the passage of section 153, more States have passed helmet and safety belt laws, lives have been saved, and dollars have been spared to the States who would have to pay for the severely head-injured people in their hospitals and rehabilitation centers. The only thing that has changed since 1991, when Congress had the wisdom to adopt this law, is that more people are alive and healthy.

I know it should come as no surprise to you, Mr. Chairman, that the No. 1 problem in our State—and I suspect in the other gentleman's State—is the cost of Medicaid. Our State is bankrupt. We owe $1.4 billion to our Medicaid providers. These injured motorcyclists are a direct burden on our taxpayers. Not wearing a helmet is part of that problem.

By the way, Senator Lautenberg suggested that if you are a motorcycle crash victim and you are on Medicaid, let the State pay 100 percent. That is a great idea. Our Governor and our Legislature will quickly identify who those motorcyclists are who will not wear helmets, add up the cost, and it will get to the Transportation Committee immediately to help pass this legislation.

I think the reasons for the passage of the helmet law are obvious. Helmets work and they save money. That should be reason enough for us to vote for such a law. But because of the political system I have described, some legislators find it difficult to do so. That is why I think the Federal law is so important. It is not really a reason for us to vote for a helmet law, but it is a good excuse for us to do so.

So a legislator I have talked to who says, "I know you are right. I know we should pass the helmet law. But I have this political pressure from the motorcyclists and therefore I can't do it." If we have the Federal law there, we can say that the Federal law is saying that we have to do it and therefore I guess I have to vote for it.

The fact of the matter is that the Illinois road contractors never cared about a helmet law until you passed this law in 1991. Since then they have been lobbying for a motorcycle helmet law. I believe when the uncertainty as to whether or not this repeal is going to pass or not is over, they will redouble their efforts to make sure that they don't lose any highway dollars. You are adding another powerful lobbyist to the list of those who are care about whether or not we should save lives and money in Illinois.

I think this is a political issue. It is a political world. We are politicians ourselves. There are lots of politics involved in this issue. The most important political reality we talk about today is the following: If this section 153 law is repealed, we will never be able to get a helmet law passed in Illinois. It is as simple as that. I urge you not to repeal the law.

Senator CHAFEE. Thank you very much.

I certainly have indicated that I am on your side on this. I find it very, very difficult to understand the arguments on the other side, but I guess that is what makes the world go around.

Dr. Rosenberg.

Dr. ROSENBERG. Mr. Chairman, I commented before on the dignity and grace of these hearings, but there is one aspect of these hearings that does bother me, and that is the repeated use of the word "accident". It strikes me that we have a country where the leading cause of death to young people up to age 44 are injuries. That is what is killing people. We have a plague in this country with 140,000 deaths a year from injuries. Somehow we don't even recognize that this is something we can do something about. I think it is largely due to our notion that these are just accidents that when young people are killed on the highways in a motorcycle or car crash, we write it off or brush it off as an "accident". "It just happened." "That is just the way it is."

I think we need to wake up to the notion that none of these are "accidents". If a motorcyclist is hit by a car because that car's driver doesn't see him or because that driver is drunk, that is no "accident". If a motorcyclist is killed because there is gravel on a road that should be clear, that is no accident.

I think we need to realize that we can prevent these. We can prevent all of these deaths by one way or another. These are not "accidents" but they are understandable and preventable. We can save these lives.

I think all of us need to get beyond the way we conceive "accidents" as just a part of our life. I think these injuries are something we can prevent and something we can do something about. Maybe the first thing we can do is to stop using that "A" word.

Senator CHAFEE. Thank you, Doctor.

I agree with you. It is odd that if you asked 100 Senators gathered how many of them believe in preventative medicine, every single one of them would say yes. Do you believe in shots for children so that they won't get polio? Yes, they are for that. They are for immunization programs.

It seems to me here that we have something that would prevent very, very serious injuries. But for various reasons, State legislatures in some instances don't choose to pass it.

Senator Enos, I know that in Rhode Island they are anxious to get this money for roads. And you think that excessive money is being spent in safety training. But if they feel that badly about it, they can pass the statute.

Mr. ENOS. I think, Mr. Chairman, in all due respect, the Legislature is looking at Washington, DC, and saying that we are being micromanaged again. Where does the Government intrusion end? I can make an analogy that we certainly have discovered that red meat is a hazard to heart disease. So should Washington say that we are going to put an extra tax on red meat and earmark that money for health care? Or maybe we should outlaw red meat being sold and only on Saturday and Sunday it should be sold.

Where do we say to Government that we have to make our own choices? We have 50 State legislatures who have the pulse of the people and are close to the people. I think maybe those decisions would be best left to local Legislatures.

Senator CHAFEE. You heard the suggestion that Senator Lautenberg made about States picking up 100 percent of the Medicaid. What do you think about that?

Mr. ENOS. The compromise legislation?

Senator CHAFEE. No, I am not saying that we are advancing that as a compromise. I am just asking what you think of the idea.

[Laughter.]

Mr. ENOS. I think it has some merit.

Senator CHAFEE. In other words, Rhode Island would be perfectly prepared to pay 100 percent of the Medicaid costs for those who are severely injured and wore no helmet?

Mr. ENOS. In lieu of losing the $600,000 this year and the $1.2 million, I would like to look at the numbers.

Senator CHAFEE. As you know, you don't lose it. That goes into highway safety.

Mr. ENOS. Yes.

Senator CHAFEE. Well, gentlemen, thank you very much.

Mr. PACKARD. Could I interject one thing, Mr. Chairman?

Senator CHAFEE. Sure.

Mr. PACKARD. My esteemed colleague, Senator Cullerton, just made a statement that I would like to respond to.

Senator CHAFEE. Whenever I hear someone referred to as "my esteemed colleague" you know it is coming.

[Laughter.]

Mr. CULLERTON. I think I may want to say something after he is through.

Senator CHAFEE. He is a very valuable friend.

Mr. PACKARD. He stated that by having the section 153 in there that some people would be compelled to vote for it because they had to. I must vehemently disagree with that. I don't think anybody should vote for something because they had to. I don't think that is our duty as a lawmaker. I think we should vote for something because it is a good bill and it is a good piece of legislation.

Mr. CULLERTON. And if I could respond, I agree with my valued friend. Perhaps I didn't communicate properly.

I think there is plenty of reason for us to vote for a motorcycle helmet law in Illinois without any Federal intervention, and I said that. This is not a reason to vote for a helmet law.

There are colleagues who have told me that they want to vote for a helmet law, but politically they feel threatened that they cannot do it because they will lose their next election. So if they can say, "Wait a minute, now I have a road contractor telling me I have to vote for the bill, and the road contractor is my excuse to vote for it, I can then tell the motorcyclists that I am sorry but I have to vote for it."

That is the political reality. I am not saying that it is ideal. It is not the way things ought to work.

I was asked earlier, Mr. Chairman, to put in the record what our salary is. These gentlemen come from States where their salary is extremely low. Our salary is $38,000 a year. I represent 200,000 people. But it is ironic. We have a full-time lobbyist who makes more than me who is lobbying against my bill. So it is a political reality that people are out there——

Senator CHAFEE. Be very pleased you are there.

Mr. CULLERTON. Absolutely. If I quit, maybe he is out of a job.

But the point is that this is a political issue. I think there are plenty of reasons for us to be for it on its merits.

Senator CHAFEE. I think it is true, as I have told this committee before. Every year we have a mammoth parade in our State which I always march in and all the motorcyclists gather in one point and lustfully boo me when I go by and wave with less than all five fingers.

[Laughter.]

Senator CHAFEE. So they are a strong political force. There is no question about it. Senator Enos can probably testify to that.

Gentlemen, thank you all very much.

Mr. ENOS. Mr. Chairman, if I may ask that you insert my statements into the record.

Senator CHAFEE. Certainly.

Mr. ENOS. Without objection, I brought with me today the President of the Rhode Island Motorcycle Association, Ed Matheny, and he has some statements which I would like to have inserted in the record.

Senator CHAFEE. Without objection, his prepared statement will appear in the record.

I have met with Mr. Matheny.

Mr. ENOS. Thank you very much.

Senator CHAFEE. Now we will have the next panel: Mr. Gary B. Sauer, chairman of the board, National Asphalt Pavement Association; and Mr. Jed S. Billings, president, FNF Construction, Inc.

Gentlemen, you may think that nobody is here—I shouldn't say that nobody is here because I am here.

[Laughter.]

Senator CHAFEE. But few are here. But all your testimony will go into the record, so don't worry that you don't give it in full.

Mr. Sauer, why don't you proceed?

STATEMENT OF GARY B. SAUER, NATIONAL ASPHALT PAVEMENT ASSOCIATION

Mr. SAUER. Thank you, Mr. Chairman.

Good afternoon. My name is Gary Sauer. I am an asphalt contractor from Maple Grove, MN. As this year's chairman of the National Asphalt Pavement Association, I am pleased to present testimony on behalf of the Association.

My formal statement has been submitted for the record and I will summarize that statement for you now.

We commend you, Mr. Chairman, for holding these hearings and appreciate the opportunity to present our views before the subcommittee.

While I will concentrate my testimony on section 1038, the crumb rubber mandate, I do want to mention our support for approval of the National Highway System. NAPA urges the subcommittee to include repeal of section 1038(d) as part of the National Highway System bill. Support for repeal of this costly mandate is shared by the National Governors Association, the American Association of State Highway and Transportation Officials, and the National Association of Counties and Highway Construction Organizations.

Most every State has regulations or laws regarding scrap tire disposal, including programs that generate scrap tire market incentives. By 1996, the Scrap Tire Management Council estimates that 89 to 93 percent of all scrap tires will be utilized in market applications such as tire-derived fuels, fabricated products, and civil engineering applications. Several States, including my home State of Minnesota, have virtually eliminated scrap tire stockpiles and have done so without any Federal mandates.

The Minnesota Department of Transportation has informed our congressional delegation of its opposition to the crumb rubber mandate. The reasons are that it more than doubles the cost resulting in a hundred miles less of resurfacing per year for the State. It will adversely impact performance and there are more cost-effective and beneficial uses for shredded tires. An example is a project where the State used over 1 million tires as lightweight fill.

Mr. Chairman, these concerns with the crumb rubber mandate are not unique to Minnesota. Mr. Chairman, 48 States, despite the moratoriums on penalties enacted in the last two DOT appropriation acts, have utilized crumb rubber in asphalt pavements. A couple use it routinely, it is our view that section 1038 has served its purpose in giving the technology broad exposure and the minimum utilization requirements should now be repealed.

We are not against crumb rubber technology, per se. Our concerns are with the costs, the engineering properties, the recyclability, and unknown health and environmental impacts related to the use of crumb rubber asphalt.

Let me briefly summarize some of these issues.

Crumb rubber-modified hot mix asphalt costs more than conventional hot mix asphalt. The most recent AASHTO survey indicated that for projects bid and constructed in 1993, the cost of crumb rubber-modified hot mix asphalt was some 67 percent more than the cost of conventional hot mix asphalt. The performance of crumb rubber-modified hot mix asphalt has been mixed. There have been both successes and failures. Certainly, there is no persuasive evidence that it is a superior product.

There is limited knowledge in the States and the Industry on pavement structural design, mix design and production, and construction methods of crumb rubber-modified hot mix asphalt. The mandated use of the product without such knowledge will result in premature failure and wasted dollars.

The Hot Mix Asphalt Industry has been a leader in recycling its product since 1970, before recycling became fashionable. According to figures published by the FHWA, 73 million metric tons out of the 91 million tons of asphalt pavement removed each year, are reused in other highway projects. For some reason, crumb rubber-modified hot mix asphalt is not recyclable. Mandating its extensive use would be disastrous to the Industry, the States, and society in general.

We do not know with any certainty if the additional crumb rubber modifier to hot mix asphalt would create additional air quality problems. Any increase in emissions would result in significant costs to the producer to mitigate the problem.

There is a similar issue with asphalt fumes. We have conducted studies that show that worker exposure to fumes from conventional

hot mix asphalt does not pose a significant problem. However, the addition of crumb rubber to the mix introduces the concern that there be adverse health impacts on the worker.

Earlier this month, Congress overwhelmingly approved landmark legislation to protect States from costly Federal mandates. Taking action to repeal section 1038(d) will send a positive signal to the States and the business community that this Congress is committed to bring about change.

NAPA appreciates the opportunity to present this testimony. I will be happy to answer any specific questions.

Senator CHAFEE. Thank you very much, Mr. Sauer.

Mr. Billings.

STATEMENT OF JED S. BILLINGS, PRESIDENT, FNF CONSTRUCTION, INC.

Mr. BILLINGS. Thank you, Mr. Chairman, for giving me this opportunity to appear at this hearing today.

I am president of FNF Construction Company, one of the Nation's largest suppliers of asphalt rubber cement. FNF is a member of the Rubber Pavements Association, the National Asphalt Pavement Association, and the Association of General Contractors. In the last 3 years, FNF has produced over 1 million tons of asphalt rubber mix, with three portable asphalt plants and four mobile asphalt rubber binder plants, which are permitted in Arizona, Nevada, and environmentally sensitive areas of California.

Since 1990, FNF has reconstructed 350 lane miles of Interstate 40 from the deserts of Barstow, CA, to the mountainous areas of Flagstaff to Holbrook, AZ. In this construction, we have used over 850,000 tons of various asphalt cement mixes, including conventional hot mix, numerous sharp sections, polymerized asphalts, and numerous miles with asphalt rubber mixes. I am here today to explain how asphalt rubber is used in the United States to modify and improve asphalt pavements.

Crumb rubber was first tested as a modifier for asphalt pavements in the mid 1960's. Its use then and now has been based on performance characteristics as a modifier, not as a recycled material produced from scrap tires. States like California, Arizona, and Florida use asphalt rubber as standard procedure in a variety of applications. Extensive experience has shown that asphalt rubber makes longer-lasting, lower maintenance road.

Proper use of crumb rubber in asphalt pavements retards reflective cracking, reduces the propensity for rutting, slows the aging process, and increases pavement flexibility. California, based on its extensive experience with crumb rubber modifiers, used approximately 1 million tons of asphalt rubber hot mix in 1994. This represents approximately 10 percent of the State's asphalt paving applications. Asphalt rubber has been used in California in varying climates from Palm Desert to the Donner Pass.

Florida's Governor Chiles instituted a program in 1994 to use a pre-reacted crumb rubber modifier process in 100 percent of the State's surface treatments. The Florida DOT, like CALTRANS, is a leader in pursuing the use of innovative materials to improve pavement performance and durability.

In Arizona, where asphalt rubber was developed, the State is using the material to improve pavement performance in numerous applications in all climatic conditions.

Cost is perhaps the least understood and the most controversial aspect of asphalt rubber. A simple comparison of asphalt rubber and conventional asphalt material costs will show that asphalt rubber material costs are slightly higher. While this is true, these types of comparisons are fatally flawed because they do not calculate savings resulting from alternate designs allowed when using asphalt rubber. They also do not calculate life cycle cost savings.

These flawed calculations, which have been provided to Congress, do not reflect market changes resulting from increased competition and the expiration in late 1992 of the primary asphalt rubber patents. It is my sincere hope that we can move beyond these inaccurate cost estimates and focus on a proven cost-effectiveness associated with the proper use of asphalt rubber materials.

An in-place asphalt rubber gap rated mix is less expensive and will last longer than a conventional asphalt cement mix. It is for this reason that most cities in Maricopa County, AZ, are using this design for their pavement preservation projects. This last month in Phoenix, AZ, a 70,000 ton residential street project was bid with the option to use either 9 percent asphalt rubber or 8 percent polymerized asphalt cement. The asphalt rubber mix was selected over the polymerized mix because it was 10 percent less expensive, even though it required 1 percent more binder.

In 1993 Imperial County, CA, had four bid options to use conventional mixes versus an asphalt rubber mix for their annual county highway overlay project. Asphalt rubber was the least expensive alternate and the savings using asphalt rubber allowed for the entire project to be funded.

NAPA has claimed that there may exist emissions and/or recyclability problems with this material. These same concerns have been raised publicly for over 10 years while evidence has continued to mount that they are unfounded. The FHWA and USEPA reported to Congress in 1993 that there were no significant differences in crumb rubber materials in conventional asphalt. Since then, over 10 comprehensive studies have been conducted across the United States to further evaluate emissions and worker health safety. A list of these studies was included with my written statement.

These studies have shown no increased volumes of emissions or increased threat to human health or the environment due to crumb rubber materials. FNF Construction has constructed more than 50 asphalt rubber projects in different geographical and environmental locations and have experienced no emission or worker safety violations.

The number of successful recycled asphalt rubber projects in the United States also continues to grow. There is no evidence to date to suggest that asphalt rubber pavements cannot be fully recycled. There have been more studies done on the environmental, worker health safety, and recyclability aspects of crumb rubber material than all other asphalt modifiers combined. These studies have shown no significant difference between conventional asphalt and asphalt rubber.

FNF and the State departments of transportation and municipalities which we serve have been extremely pleased with the performance of asphalt rubber. Improved pavement performance resulting from asphalt rubber has occurred due to a commitment to innovation by leaders in certain State departments of transportation.

As with any emerging technology, there exists a learning curve for those interested in using the technology. Those who have studied this technology will tell you that asphalt rubber used in gap graded applications, properly designed, performs well.

In 1991, Congress adopted section 1038 of ISTEA which required States to use modest amounts of crumb rubber materials. Many States and members of the hot mix asphalt community continue to resist the use of asphalt rubber and are actively fighting the Federal requirement. Our industry would appreciate stable congressional guidance to encourage States to use asphalt rubber.

The legislative language included last year in the National Highway System reauthorization bill, section 108 appears to be a balanced compromise between the environmental community and the conventional paving industry. It is our sincere hope that Congress will adopt a legislative solution this year that will continue to encourage greater use of this proven asphalt rubber technology.

Thank you.

Senator CHAFEE. Well, there appears to be a little difference.

Mr. Sauer, you're not going to drum him out of your association?

Mr. SAUER. Absolutely not.

Senator CHAFEE. One of the things that struck me, Mr. Sauer, in your testimony is that you said that your studies have shown that the rubber asphalt is 66 percent higher in cost, whereas Mr. Billings indicated that it was somewhat more expensive.

Mr. Billings, did you use 25 percent?

Mr. BILLINGS. I don't think I used a number, but it is 25 to 30 percent higher.

Senator CHAFEE. There is a little bit of a difference there.

Where did you get your figures, Mr. Sauer?

Mr. SAUER. My figures, first of all, came from this testimony right here. But it was taken from AASHTO, which are the State directors. They have gotten that from the different people in their States who have experimented with it.

Senator CHAFEE. Mr. Billings has been out on the firing line there with bids that have been submitted. There seems to be considerable validity in the points he has made about his costs.

Also in your testimony, Mr. Sauer, you said that it is not clear that it is recyclable. What do you mean by that?

Mr. SAUER. I can assure you that in Minnesota, we in fact buy used asphalt to recycle because we run out all the time because we also use it for private work as well.

But to answer your question, there is a real concern whether or not the additives in tires—which have a lot more petroleum product than one could ever realize—could show a health effect to the workers not only in production but in the lay-down process.

Right now, we are in about our fifth year of studies on just asphalt fumes without modifiers or rubber. Depending on who is doing the test, there are all kinds of different results. We just feel

that by adding these modifiers and the rubber use, there is certainly going to be more additives to the exhaust not only of our asphalt plants, but again as to the workers that are behind the pavers when they are paving the product.

Senator CHAFEE. When we did this several years ago under the ISTEA bill in 1991, we required that EPA make a study to see whether there was reliable evidence indicating that manufacture, application, or use of asphalt pavement containing recycled rubber substantially increases the threat to human health or the environment as compared to the threats associated with conventional pavement. They made this study and the results of that study showed no appreciable changes. As you mentioned, there is some concern about the conventional asphalt. But from the studies that have been conducted by EPA on that, they show no appreciable difference between health problems associated with conventional as opposed to the rubberized.

Mr. Billings, you indicated that your people hadn't found any problem.

Mr. BILLINGS. Yes. Our people have been tested on several occasions and there is no difference between asphalt rubber behind the lay-down machine, around the asphalt plant, or next to a truck. There is no difference between asphalt rubber and regular mix.

Senator CHAFEE. Mr. Sauer, one of the suggestions here—and I am not necessarily saying that I am embracing it—is that this statute not be repealed but that it be modified to allow greater flexibility. In other words, that the research would continue on it, because we do have this problem. I am interested in what you said in your testimony that Minnesota is able to handle its rubber tire problem. That is a separate subject, but I am curious how they do it. I don't know how they do it. Do you know?

Mr. SAUER. Yes, I do know, Mr. Chairman.

First of all, if I could answer a question you presented to Mr. Billings earlier, when they talk about research and testing and whether or not it is a health hazard, there are a lot of different tests that take place. Like I told you, we have been working with just hot mix asphalt without any modifiers for the last 5 to 6 years and they continue to have more and more tests. I would imagine that Mr. Billings had some very minor type tests being taken, and it could depend on the weather conditions, how hot the mix was, and how much of the percentage of additives was added to the material. There are all kinds of different answers.

I am not a scientist to be able to give you those answers at this time. But I am telling you that we are continually spending a lot of money to go through continued research with——

Senator CHAFEE. In the Association?

Mr. SAUER. Yes. In fact, the research done by EPA, as Mr. Billings has said—they continue to research it and NIOSH, part of OSHA, has in fact put some programs together to do some more testing on just that same subject. I think it will be sometime this year or next year that they will get the results of that testing. I think we need to wait for some of those answers because they do more extensive tests than what Mr. Billings or I are used to seeing.

As far as your question on Minnesota, we have been burning the tires at the NSB plant in Stillwater, MN. Our reports are given by

the Minnesota Pollution Control Agency. No. 1, we will be importing tires by 1996. No. 2, their stack burns much cleaner than the conventional coal they had been using in previous years. That is how they have been able to eliminate theirs. I believe Wisconsin is doing the same thing and will also be importing.

Senator CHAFEE. That is a power generating plant?

Mr. SAUER. Yes.

Senator CHAFEE. This is getting a little technical, Mr. Sauer. This is technical for me.

Mr. SAUER. It probably will be for me as well.

Senator CHAFEE. No, I think this is right up your alley.

As I understand, asphalt rubber crack and joint sealant is used in about 40 States. Am I correct in that?

Mr. SAUER. I believe that is true, Mr. Chairman.

Senator CHAFEE. As I understand, this material is well accepted and apparently cost-effective. About 2 million tires are recycled into asphalt rubber crack and joint sealant. If it is good enough for that, why isn't it good enough as a modifier to hot mix asphalt? I am not sure of the difference.

Mr. SAUER. I am not particularly sure either, Mr. Chairman. And I don't attempt to say that it is not a health hazard if that product is recyclable.

Senator CHAFEE. No, I am not talking about the health aspects here. I am talking about the durability of it and so forth.

Mr. SAUER. It is a different type of product versus being put in the asphalt mix itself. It is more of a liquid type product. It has worked out very well for them. But whether or not it gets used in the actual surface of the highway and be able to perform with the traffic usage—it is just a different process. You are talking about the cracks and different seams within the roadway versus the entire roadway.

Senator CHAFEE. One of the problems that is raised with me—and I may not phrase it too artistically—is the contractors at home tell me that they have problems in the batch mixes—if I phrase that correctly—that they only have equipment that can do one of these processes, and to have some rubber asphalt and some regular asphalt presents them with mechanical problems.

Does that sound logical?

Mr. SAUER. I don't know if I completely understand. I do know that the average contractor that has tried to convert his plant has been somewhere in the neighborhood of $200,000 to $250,000 to get the plant itself set up to be able to produce the hot mix asphalt with crumb rubber added to it.

Senator CHAFEE. I guess the problem they were presenting to me was that they didn't have a big enough facility to do both.

Could you comment on that, Mr. Billings?

Mr. BILLINGS. Sure.

When we first got into it, that was one of our problems. But as we developed bigger pieces of equipment—when you make asphalt rubber, you make it into batches and it has to cure for a certain period of time. But most of us that have done it for a period of years, you can make multiple batches before you start an operation in the morning.

We are currently running a job in Phoenix, AZ, where we would normally get 2,500 tons a day of regular mix and we are getting 2,500 tons a day of asphalt rubber mix. That is ongoing today.

Early on, that may be a problem, but as you develop your batching-type equipment to handle multiple batches, you don't lose anything.

Senator CHAFEE. Let me ask you about the weather problem. We had good testimony from the chief of highways in Florida. Obviously, that is predominantly hot weather. Then the gentleman from North Dakota indicated that it hadn't worked out very well. Yet, you indicated that you have laid it down in Arizona and then you mentioned the Donner Pass are in California. So you have used it in cold weather likewise?

Mr. BILLINGS. Yes. That is one of the first jobs we did in 1990, which is now almost 5 years old. That was done east of Flagstaff at 7,500 feet with a winter's mix, minus 30 below, 6 feet of snow, summers in the 80's to 90's. This job on Interstate 40 was a 20-year-old crack concrete, rideability of 250 inches per mile. This was a road you could hardly drive 30 to 40 miles an hour on. In lieu of removing the concrete, we put a leveling course on top of the concrete and then 2.5 inches of asphalt rubber. With concrete, your cracking will normally reflect through on conventional asphalt. That is why you have to use crack sealant. You don't use crack sealant in rubberized asphalt because it won't crack. But you use it in the conventional mix because it will crack.

So with the asphalt rubber on this particular job on I–40, after 5 years of service, there are no reflective cracks in this piece of pavement that is about 20 miles long—10 miles eastbound and 10 miles westbound.

There were also numerous sharp sections done on this same piece of concrete, and they only lasted a year. These were conventional mixes, some polymerized asphalts. They only lasted one season and then had to be fixed.

At 7,500 feet, it was one of the most successful jobs done in the State of Arizona and it is almost 5 years old now.

Senator CHAFEE. Mr. Sauer, it would seem to me that your organization would be interested in these kinds of experiences Mr. Billings has. It is quite a testimony given. Is there some flaw to it that you see?

Mr. SAUER. I would have to see the project. There are experiments done all over. He talked about a leveling course. That leveling course—and I am going to be somewhat sarcastic—could be 2 feet thick and then an inch and a half of the rubber put on, or it could be just a leveling course of a half inch with 2.5 inches. Then the other part that was done with conventional hot mix asphalt could just be a 2-inch overlay. It could be something different.

I don't know any of the details behind it, but we certainly as an organization are very interested in the new technologies. We don't have any problems with crumb rubber technology, per se, other than when you mandate it to the States, those that don't have the technology and the know-how to put it together can sometimes get them in a situation where they just can't live with it and the fear they have for the penalty are too astronomical for them.

Senator CHAFEE. I suppose one way might be to have an incentive in there instead of a mandate. What do you think of that?

Mr. SAUER. That sounds very interesting. As I said, we are very flexible, but when you say that it is going to be so much—we had an experience with a county putting down a rubberized mix, and their design may have been horrible. But they laid it down in the fall and by spring they had to take the stuff up and mill it off. It didn't work for them. But I am not saying that Mr. Billings is right or wrong. I am sure they probably used a bad technology. It was about 4 years ago. But it would be a great idea to have some kind of incentive program for people who use the materials to get a bonus. But I don't think we should mandate and force those that have better uses the opportunity not to use those.

Senator CHAFEE. Maybe you ought to get Mr. Billings to speak at your next annual meeting about this program.

Mr. Billings, I get the point you make that we should have some consistency in what we do around here and not zigzag all over the place and pass a law and repeal it. Already we have had this postponement and moratorium on the requirement.

What do you say about some kind of an incentive as opposed to a mandate?

Mr. BILLINGS. I think that might be a good way around this situation. There are really only a handful of States who have done it right. There have been some States that say they have done asphalt rubber, but I question whether they have done it correctly. But possibly as an alternate to a crumb rubber mandate—as you know, there is a tire excise tax, which generates about $300 million per year for the highway trust fund. Instead of a mandate, maybe Congress should set aside all or a portion of these funds for States interested in using asphalt rubber.

Mr. SAUER. Mr. Chairman, I would suggest that there are a lot of States that have incentive programs where they charge $1 a tire when you buy a tire for the disposal of that tire in the future. They certainly have some funds in different States that could be used for incentives to use that product versus trying to take highway dollars.

I know the State of Minnesota and our highway problem continues to grow. This country was built on a sound foundation of infrastructure. I am sorry to say that the State of Minnesota, as well as other States, just don't have the funding to maintain that. Certainly by using those funds for something other than what we think can work is certainly a mistake.

I apologize to Mr. Billings. Certainly if that research continues to be positive, more and more people will use that and the life cycle costing, as he stated earlier, is very widely talked about and soon will be used in the State of Minnesota. Certainly we will be using it in the State of Minnesota.

Senator CHAFEE. OK, gentlemen, I thank you both very much. I appreciate it. Thank you both for coming here.

[Whereupon, at 12:54 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM THE STATE OF MAINE

Thank you, Mr. Chairman and members of the Subcommittee for giving me the opportunity to testify today.

Before I begin, I would like to recognize the work of the Senator from New Hampshire, Mr. Smith, on the issue of helmet and seat belt mandates.

The 104th Congress began with a pledge to reduce the scope of the Federal Government and to restore the ability of the States to resolve their own problems for their own people with their own solutions.

Due in large part to the leadership of the Senator from Idaho, Mr. Kempthorne, we were successful in adopting legislation to curb future unfunded mandates. The legislation that I am advocating today follows this guiding principle and meshes with the new attitude in Congress.

I have come before you to ask that the Subcommittee include a provision in the National Highway System Reauthorization bill that will repeal the penalty contained in section 153 of ISTEA for States that choose not to pass a law requiring the use of motorcycle helmets.

This issue relates directly to the excessive reach of the Federal Government, and to the coercive means the government too often uses to bring States into line with what Washington deems to be politically correct.

Section 153 of ISTEA levies a heavy penalty on the 25 States that have not enacted laws requiring motorcycle riders to wear helmets. Beginning in 1995, section 153 forces these States to divert 1.5 percent of their fiscal year 1995 highway funds from the National Highway System Program, the Surface Transportation Program, and the Congestion Mitigation and Air Quality Improvement Program, and instead fund section 402 safety programs—programs that often are already fully funded.

The amounts transferred under section 153 are not inconsequential. In fiscal year 1995, the 25 States that do not have helmet laws—including Maine, Idaho, New Hampshire and Montana—could lose $49 million, according to National Highway Traffic Safety Administration estimates. These penalties will double in 1996 unless the States pass helmet laws.

In effect, the Federal Government is micromanaging State transportation budgets because it doesn't agree with the policy choices made by those States. For many States, this means that badly-needed road improvement projects will be deferred while State safety budgets expand dramatically, regardless of whether or not the additional safety funds are needed. In fact, most States already have well-funded highway safety programs.

If a State believes that its highway safety program needs an increase, we should let the Governor and the State legislature raise the budget for that program in any way and in any amount that they believe appropriate. Implicit in section 153 is the notion that when it comes to highway safety, the Federal Government always knows best. That is why the National Conference of State Legislatures and many State Transportation Departments oppose section 153. It is just this kind of arrogance on the part of the Federal Government that provoked such a reaction at the polls last November, and I think this issue is a good place for those of us in Congress to take heed of that public sentiment.

In addition to being overly coercive, section 153 attempts to address a problem that is already being addressed. The States have demonstrated an active concern for the safety of motorcycle riders, notwithstanding section 153. Within the last month the State of Wyoming adopted a State sanctioned motorcycle rider education program, bringing the number of States to forty-four, that have such a program. These education programs are funded through motorcycle registration and licensing fees. In 1995, these programs will receive an estimated $13 million from the States.

Motorcycle rider safety and other existing State highway safety programs have proven effective at reducing the number of accidents involving motorcycles. Since 1983, the number of accidents has decreased from 307 per 10,000 registered motorcyclists to 206 in 1992. Fatalities have similarly declined from 8 per 10,000 registered motorcyclists in 1983 to 6 per 10,000 in 1992. Furthermore, between 1980 and 1992, the number of motorcycle occupant fatalities declined 52.9 percent from 5,097 in 1980, to 2398 in 1992. This remarkable decline occurred before section 153 went into effect, demonstrating clearly that heavy-handed treatment by the Federal Government is not essential to improve motorcycle safety.

Mr. Chairman, the fact is that the penalties of section 153 have not demonstrably succeeded in improving motorcycle safety on America's highways, or in achieving its own aims. Of the 25 States that had not passed helmet laws in 1993, none have passed them as of today, despite the heavy penalties they must pay beginning this year.

Fifteen State legislatures have even formally rejected helmet laws since 1993, despite looming Federal penalties. And in the remaining States, helmet bills either were not introduced or did not get reported out of committee. In fact it can be argued that this change in law halted a trend. Between 1989 and the summer of 1991, when ISTEA became effective, five States—Nebraska, Oregon, Washington, California and Texas—passed mandatory helmet laws. Since that time, only one State, Maryland, has adopted a mandatory helmet law.

Ironically, section 153 penalties may actually compromise the safety of not only motorcyclists, but of all drivers and passengers on public roads. The State of Maine is now facing a huge backlog in road maintenance. Many roads are crumbling, pocked with potholes, and experience frost heaves every spring that produce dangerous natural "speed bumps." Our roads need to be fixed, but we do not have sufficient funds to do so, and the backlog gets bigger each year.

At a time when we are struggling to maintain these roads and to provide safe arteries of transportation and commerce, the Federal Government is diverting a substantial amount of money away from badly needed road repairs that will help to ensure the safety of the motoring public.

The people of the 25 States without motorcycle helmet laws have made it very clear: they do not agree that mandatory helmet laws are the only or the most appropriate way to improve motorcycle safety.

Mr. Chairman, the time is ripe for the repeal of section 153's motorcycle helmet penalties. Citizens in half our States view section 153 as another unwarranted intrusion by the Federal Government into their daily lives. It's a classic example of what people mean when they say that the Federal Government has gotten too big.

We need to restore to the States those authorities that are rightfully and appropriately theirs, and we need to be smarter in our approaches to public policy. The people want more control of their own lives, and I think we should be respectful of their wishes.

In that regard, I hope that you will include S. 388 legislation in the National Highway System bill.

Thank you for the opportunity to testify, Mr. Chairman.

STATEMENT OF HON. DON NICKLES, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify on my bill, S. 476, which would repeal the National Maximum Speed Limit. Since the inception of modern highway transportation we entrusted the States with the authority to regulate speeds. The Federal Government, however, usurped that control in 1974. My legislation will return to the States their authority to set speed limits.

Currently, the National Maximum Speed Limit allows the Federal Government to penalize States which do not comply with posting and enforcement of speed regulations. As you know, the penalties are potentially as high as 10 percent of a State's National Highway System and Surface Transportation Funds. The National Maximum Speed Limit is only 1 of 19 provisions of Federal law which threaten States with the loss of their badly needed highway funds, an issue to which I would like to return later in my testimony.

I firmly believe that States should have the authority to set their own speed limits without threats looming overhead from the bureaucracy in Washington, DC. My legislation will empower the States to do exactly that. Returning this authority to the State Capitols will result in more reasonable speeds for the various conditions of our nation's highways.

Many critics of repealing the 55 mph and 65 mph speed limits on interstates feel this issue is one of public safety. I disagree. In fact, the issue of public safety played no role in 1974 during the original debate. My legislation will allow States to regulate speeds at whatever limits they know to be suitable for their own particular highways. Safety factors such as traffic flow, lay of the land, and design of the roadway, should be the paramount concerns in regulating reasonable speeds.

If a highway is only capable of handling speeds up to 55 mph, for example, it will be the prerogative of the State to keep the limits on that particular road at that speed. If safety conditions on a highway are such that greater speeds can be permitted safely, a State will likely reexamine the currently posted speed limits. A State government should not be obligated to set its speed limits based solely on the fear of Federal retaliation.

As you may be aware, I was the author of legislation approved in 1987 which allowed for a 65 mph speed limit on highways built to interstate standards, such as State turnpikes. Prior to that, in 1986, the 55 mph Federal limit was lifted for all

non-urban interstate highways. I have heard very positive feedback on these changes in the law and I know people feel strongly that the time has come for rational speed limits across the board.

Before concluding, I would like to address the larger issue of our relationship with the Federal Government as citizens of the United States, of which a federally imposed National Maximum Speed Limit plays only a small part.

Under current law, the Federal Government imposes 19 transportation-related sanctions on State governments. These include a variety of provisions ranging from the micro-management of highway maintenance, to regulations mandating the use of recycled paving materials in asphalt, to enforcing strict control over outdoor advertising and junkyards. All 19 Federal mandates carry on their coattails the harsh punishment of a reduction in highway funds for non-compliance.

In my opinion, such power and control should never have been placed in the hands of the Federal Government. Our Democratic form of government was founded on individual freedom and limited federalism. It is time we rethink our views on the role of the Federal Government and grant individual States the authority to govern responsibly.

I strongly support the efforts of my colleagues who are also testifying here today on similar issues. I am a cosponsor of Senator Snowe's Helmet Law Repeal Bill, S. 388, and I have been very appreciative of Senator Campbell's efforts on our speed limit legislation. I would like to insert in the record a copy of the American Association of State Highway and Transportation Officials, or AASHTO's, "Transportation Policy Resolution" which supports the repeal of the National Maximum Speed Limit, as well as a letter of support for this legislation from the Secretary of Transportation in Oklahoma.

In conclusion, the elections last November sent a very clear message to lawmakers here in Washington: People want less government and they want greater accountability for decisions which affect them, their State, and their Nation. This can be accomplished by ceding power now vested in the Federal Government back to the States. I urge you to support the repeal of the federally mandated National Maximum Speed Limit and place the authority in its proper place—with the individual States and their elected governments.

Thank you.

AASHTO (American Association of State Highway Transportation Organizations) Transportation Policy

THE NATIONAL STATUTORY SPEED LIMIT (APRIL 19, 1993)

PR–5–93

WHEREAS, Congress has mandated a National Maximum Speed Limit of 55 miles per hour on any public highway within State jurisdiction, except on rural Interstate highways where the speed limit may not exceed 65 miles per hour; and

WHEREAS, years of highway and traffic engineering experience have demonstrated that motorists tend to drive at a speed which they perceive to be reasonable and prudent for the highway on which they are operating; and

WHEREAS, experience has shown appropriate speed limits can properly attract traffic to the safest highway facilities increasing overall safety; and

WHEREAS, experience has further shown that speed limits set arbitrarily below the reasonable and prudent speed perceived by the public are difficult to enforce, produce noncompliance, encourage disrespect for the law, create unnecessary antagonism toward law enforcement officers, and divert traffic to lesser routes; and

WHEREAS, the intermittent application of 65 and 55 miles per hour speed limits in the vicinity of urban areas creates confusion among motorists and can lead to unsafe acts; and

WHEREAS, the majority of the Interstate system was designed and constructed for speeds of up to 70 miles per hour; and

WHEREAS, implementation of the National Maximum Speed Limit has created confusion and has generated considerable criticism due to unexpected and apparently unnecessary speed limit reductions; and

WHEREAS, motorists have clearly demonstrated through their actions that they perceive arbitrary speed limits to be unreasonable;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of AASHTO urges Congress to allow the States to set reasonable speed limits on urban and rural highways following established traffic engineering principles and in accordance with the *Manual on Uniform Traffic Control Devices* (MUTCD); and

BE IT FURTHER RESOLVED that this resolution be forwarded to the appropriate congressional committees, the National Governors' Association, and the Federal Highway Administration.

NEAL A. M CALEB
Secretary of Transportation

FRANK KEATING
Governor

STATE OF OKLAHOMA

March 13, 1995

The Honorable Don Nickles
United States Senator
133 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Nickles:

I applaud your recent introduction of a bill to repeal the National Maximum Speed Limit. As you know, federal mandates and penalties for non-compliance are a constant threat to the Oklahoma Department of Transportation's ability to build and maintain highways effectively.

There are twenty federal mandates affecting highway funds which carry cash penalties for non-compliance. I am delighted by your action to repeal one of these mandates, the national speed limit, and I encourage you to do all you can to eliminate any other penalties to the states for non-compliance with mandates.

Federal transportation funds are collected by the states on gas taxes and forwarded to Washington, D.C. Oklahoma is a donor state receiving only 90 percent of its contribution. These monies are desperately needed to build and maintain Oklahoma's highways.

Thank you for your willingness to work toward eliminating penalties and toward directing more dollars to the state for construction and maintenance. I strongly support this legislation.

Sincerely,

Neal A. McCaleb
Secretary of Transportation

NAM:ly

200 N. E. 21st STREET • OKLAHOMA CITY, OKLAHOMA 73105 • (405) 521-2638

[From The Evansville (Ind.) Press, Jan. 19, 1993]

MEMO: INDY LINK ONLY 8 MINUTES FASTER

OFFICIALS NOT LIKELY TO REFER TO ESTIMATE

(By Terry Wells)

An internal memorandum released by the Federal Highway Administration shows that only 8 minutes of travel time would be saved between Indianapolis and Evansville with construction of Interstate 69.

The handwritten note, part of a 2-inch package released to a Bloomington, Ind.-based opponent of the $1 billion project, said the 8-minute travel margin probably would not be included in an environmental study for "political reasons."

The memo, written April 11, 1991, by FHWA environmental engineer Larry Heil, said driving from Indianapolis on Interstate 70 west to U.S. 41 and south to Evansville—the quickest existing route—would take only 8 minutes longer than a trip along the proposed I–69 alignment.

Heil added in the memo that, "given the political nature of this project, no discussion is expected in the document," a reference to the environmental impact statement that was being prepared for the Indiana Department of Transportation at the time.

In recent years, officials have said the extension of I–69 south through Bloomington, Washington, and Petersburg to Evansville could save 15 to 30 minutes in travel time while providing an impetus for new industry to locate in the area.

The 30-minute estimate remains valid, Federal officials said, only if one travels to Indianapolis through Bloomington—not by going north on U.S. 41 and east on Interstate 70.

Heil wrote that the information about the I–70/U.S. 41 time difference should be included in the "no-build alternative" section of the environmental document. National Environmental Protection Act requires agencies to address what would happen if no project were built.

The Federal highway officials said today that the time estimate provides an 8-minute difference based on the likelihood that a bypass will be built at Terre Haute, Ind., to shunt traffic between U.S. 41 and I–70.

Tom Tokarski, the Bloomington activist, said the memo is evidence that Federal officials were skeptical of the need for the project and that they expected INDOT to suppress the 8-minute estimate.

"You have people here clearly withholding information because it isn't favorable to the project," Tokarski said.

Phil Schermerhorn, an INDOT spokesman, said this morning he has not had an opportunity to view the released documents. But he said the debate over I–69 has gone on for years, both within and outside the government.

Schermerhorn said he doubted the accuracy of the 8-minute time difference, however, noting that drivers who use U.S. 41 have to contend with traffic lights and a 55 mph speed limit.

Tokarski said he received the document from INDOT after sending three separate rounds of requests to State officials under the Indiana Public Records Act and to Federal officials under the Federal Freedom of Information Act.

The information would likely be used if Tokarski's activist group, Citizens for Appropriate Rural Roads, ever goes to court to fight the project, he said.

Robert L. Burch, assistant division administrator for the Federal Highway Administration's Indiana office, said the "political" reference concerned the nature of the project itself.

The environmental study does not compare the proposed alignment to the existing I–70/U.S. 41 route because Congress authorized funds to study a highway route through Bloomington, he said.

"The congressional mandate for the study said the highway has to go from Indianapolis to Bloomington to Evansville," he said.

It is significant to note that the I–70/U.S. 41 route is dependent on the construction of a bypass around Terre Haute that could significantly reduce travel time.

The documents released also included a letter from FHWA district engineer James Threlkeld that discounts a notion that has gathered strong political momentum recently—that of making the Evansville-to-Indianapolis highway part of a mid-continental artery linking Detroit with Houston.

In late 1992, a coalition of business and political leaders from the eight States affected by the proposed highway gathered in Nashville, Tenn., and formed the Mid-

Continent Highway Coalition. The group is now contacting members of Congress in hopes of spurring new funds for the project.

But on April 14—some 6 months before the formation of the Mid-Continent group—Threlkeld's assessment of making I–69 a link from Detroit to Memphis was less optimistic.

"This is a somewhat specious argument because, as a casual glance at the map the Federal aid highway system will show, there is already a relatively direct interstate system between these two cities," Threlkeld wrote.

Tokarski said the memo contradicts the notion that the highway is needed to provide efficient transportation in the Nation's financially ailing mid-section.

The documents released also shed light on confusion involving the consulting firm picked last year to do a full environmental impact statement for the Evansville-to-Indianapolis stretch.

Originally, the Evansville firm of Bernardin-Lochmueller & Associates was hired to do a full EIS on the Bloomington to Newberry section under a $1.2 million contract. Two other firms were picked to write less rigorous environmental overviews.

Then, after strong criticism about breaking up the project into segments, INDOT announced in May that it would hire a new consultant to study the entire route. The State agency decided to stick with Bernardin-Lochmueller, and told that to the Federal officials in a July 10 letter.

A month later, the Federal agency wrote back to say the contract should be put out to bid. In October, then-INDOT Commission John Dillon said the agency was considering several other consultants.

Recently, INDOT announced that Bernardin-Lochmueller will do the work after all, but no dollar figure has yet been set.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM THE STATE OF COLORADO

Mr. Chairman, today I come before you to discuss an issue that I see as not only a burdensome Federal mandate placed on the backs of State legislatures, but also as an erosion of civil liberties and personal freedom. As the Congress has been debating the issue of unfunded mandates, I think today's discussion is extremely relevant and important, and I thank the Chairman for allowing me to testify.

As my colleagues know, the Intermodal Surface Transportation Efficiency Act, otherwise known as ISTEA, included language that required States to pass motorcycle helmet and seat belt laws by October 1, 1993, or face significant financial penalties.

States currently in non-compliance with ISTEA are being forced to shift 3 percent of their Federal highway construction dollars into safety programs. This transfer effects three programs: the Surface Transportation program, the Congestion Mitigation and Air Quality Improvement System and the National Highway System. These penalties are assessed regardless of whether or not the State already has funds dedicated to safety programs and regardless of the State's individual safety record—a "one size fits all" approach.

Mr. Chairman, last month I met with representatives from the Colorado Department of Transportation. One of their major items of concern was unfunded mandates. They were asking for relief from mandates such as the crumb rubber requirement, future metrication and the helmet law. Colorado's legislature has repeatedly voted down helmet law legislation. Should States be punished because they don't want to pass a law that the Federal Government tells them to? Doesn't that fly in the face of States' rights.

Mr Chairman, let me be clear. I am not opposed to safety programs or people wearing helmets. Quite the contrary. What I am opposed to is the Federal Government blackmailing States into passing laws. Throughout my career in politics, I have always stuck with my philosophy that each State and community should, to the best of its ability, be allowed to make its own policy decisions. I don't agree with all parts of the Contract With America, but those sections described with individual rights. In short, I believe the policies embodied in ISTEA, policies that blackmail States into complying with these Federal mandates, are terribly off base.

I firmly believe, and I know the Committee shares my belief, that we must do everything we can to make our roads and highways safer. There are entirely too many fatalities and injuries on our highways. I know that proponents of mandatory helmet laws believe their efforts will increase highway safety. It is evident, however that this belief is mistaken. Wearing helmets does not prevent accidents.

Evidence clearly indicates that the most effective way to reduce motorcycle accidents and motorcycle fatalities is through comprehensive education programs. The

national average of motorcycle fatalities per 100 accidents is 2.95. States with rider education programs and no helmet laws, however, have the lowest average death rate, 2.56 fatalities per 100 accidents. States with mandatory helmet laws and no rider training programs, on the other hand, have a significantly higher rate of 3.09 fatalities per 100 accidents.

Lets just say, for the sake of argument, that those on the other side of this issue are right—that motorcycle helmets make people safer. Does that give the Federal Government the right to force people to wear them? Most people would agree that too much exposure to the sun can cause skin cancer. Should the Federal Government require all sunbathers to use sunscreen? Should the Federal Government require all children to drink two glasses of milk everyday? Should the Federal Government mandate that all women receive mammograms?

While it can be argued that mandating these things would be good for America's citizens, is it right to have the Federal Government intrude into our lives to this extent? The question is, Mr. Chairman, where do we draw the line?

I believe that encouraging and providing support to States and local communities to establish motorcycle training programs would be a much more effective means of improving motorcycle safety on our roads and highways. The Federal Government should redirect its role to assisting States in coming up with effective guidelines regarding these safety programs, rather than requiring States to use scarce construction dollars to pay for them.

I realize that the motivations behind ISTEA and those who want to force States into passing helmet and seatbelt laws are doing so out of concern for the safety of the traveling public, but I think their efforts are misguided. Forcing States to pass laws, or throwing money at safety programs is not the answer.

I own a motorcycle, that's no secret. Where helmets are required to be worn, I wear them. Where they are not, I usually don't. I make no bones about the fact that my dislike for mandated helmet use is, in part, inspired by my interest in motorcycling. But, I also think personal freedom is an issue. I do not think the Federal government should dictate to the States, or its citizens, matters of individual liberty. The choice of wearing a helmet, or not doing so, should be left up to the individual—not forced by government extortion. And those who contend that it is not simply a personal responsibility because motorcyclists who choose not to wear helmets can become a "public burden" are using faulty logic. It would then follow that we should mandate helmets for skiers, horsemen, skateboarders and automobile drivers.

In closing, I want to strongly encourage the Committee to reconsider the position taken in ISTEA. It is wrong to blackmail the States into passing laws. While the motivation to increase the safety of motorcyclists is a noble goal, I think if you will review the facts, you will find that mandating helmet usage makes little practical sense.

STATEMENT OF MARSHALL MOORE ON BEHALF OF THE TRANSPORTATION DEPARTMENTS OF IDAHO, MONTANA, NORTH DAKOTA, SOUTH DAKOTA, AND WYOMING

Mr. Chairman and members of the subcommittee, I am Marshall Moore, Director and Chief Administrative Officer, Department of Transportation, State of North Dakota. I appear today on behalf of my own State and also the States of Idaho, Montana, South Dakota, and Wyoming.

At the outset I want to acknowledge and commend two members of the Subcommittee, Senator Baucus and Senator Kempthorne, who represent States in our five State group. We (the five States) appreciate their leadership in ensuring that our nation's transportation laws and policies are effective and treat our region of the country, as well as all others, fairly.

Also, Mr. Chairman, we want to commend you for your work to date as Chairman of the Subcommittee. You were right to promptly introduce legislation, S. 440, to approve designation of the National Highway System (NHS) (and Senators Baucus and Kempthorne are, commendably, co-sponsors of S. 440). And you are right to be interested in easing regulatory burdens on recipients of Federal highway funds. So, we think you are on the right track. What we hope to do this morning is help build a record that will enable this Committee and the Congress to promptly approve the NHS and to promptly reduce regulatory burdens.

OVERVIEW OF STATEMENT

Our statement today emphasizes three key points.

First, our strong support for prompt passage of legislation approving the NHS.

Second, our strong support for full funding of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and of the highway program in particular. We understand that this is a time when virtually all Federal spending is being closely scrutinized for possible reduction. But ISTEA's programs are highly meritorious. They are paid for by users. They deliver real value to our people and businesses. They deserve strong support, not reduction, in the budget and appropriations process.

Third, that regulatory burdens and unfunded mandates imposed on highway fund recipients should be eliminated, or at least scaled back—now. This particularly includes management system requirements and crumb rubber utilization requirements.

ISTEA IS A GOOD LAW

Let us also make clear at the outset our basic view that ISTEA is a good law. We supported its enactment. It has many strong points, including:

- its funding flexibility;
- that it allows States some flexibility in design standards;
- that its program structure includes funding not only for Interstate and NHS routes, but also for other highways and for local transit systems; and
- that its overall funding formulas give appropriate recognition to the national interest in providing adequate transportation across and within rural areas, as well as other areas.

We take a moment to reaffirm our support for ISTEA because, in recent months, the Department of Transportation outlined a proposal for a major restructuring of the Department and its programs. The proposal would effectively reopen ISTEA as well as other statutes.

Our understanding is that Congress has not shown interest in a major restructuring of ISTEA programs, particularly at this time. We think that's a wise decision. Simply, ISTEA's program structure is basically sound. We are not saying that we would not support efforts to reduce administrative costs and overhead at USDOT. We do. But changing basic program structure is another thing entirely, which we do not think can be justified.

There are two main problems with current law in the highway program: (1) it has been inadequately funded; and (2) it has produced excessive regulation. For the foreseeable future, those are the problems that need attention.

Let me turn now to our more specific points.

THE NATIONAL HIGHWAY SYSTEM SHOULD BE DESIGNATED PROMPTLY

In our view, the highest transportation priority for the Congress this year is to pass legislation designating the NHS. The NHS will serve important national interests—but only if Congress approves it. Delay in approving the NHS makes it difficult for States to plan their transportation programs, including construction schedules for projects both on and off the NHS. If approval is delayed past this September 30, significant highway funds will be withheld from the States. That would cause needless disruption of transportation programs, adversely impacting citizens throughout the country.

We have strong views on other transportation issues. For example, we'd be delighted if significant regulatory reduction could be passed as part of NHS legislation before September 30.

However, one of the things I want to make clear today is that approving the NHS is our first priority. If adding other material to NHS legislation will prevent Congress from passing it in a timely manner, then we believe the public interest would be best served if Congress proceeded to enact scaled down legislation approving the NHS, and deal with other issues shortly thereafter. It's not that other issues are unimportant, but that NHS approval is of such importance that Congress must not let other issues preclude timely NHS designation.

The reasons why an NHS is so important are self-evident to us. But, for the record, let us touch on some of them. All regions of the country must have a transportation system which provides its citizens and businesses with good connections to all other regions of the Nation, and then outward to the world. Highways are the key to the transportation system in our rural region because of the great distances between rail lines and the fact that we don't have deep draft ports or large hub airports. Our highways, particularly our NHS routes, serve our international, interstate, and regional commerce, support national defense, and enhance the quality of life.

So, with NHS routes being so important to our people and economy, Mr. Chairman, a critical question for us was whether the system of routes proposed by

USDOT/FHWA to Congress would meet the needs of our region. Initial drafts of the NHS routes did not. Throughout 1992 and 1993 our States, individually and collectively, provided detailed justification to the agency to modify those initial drafts, and ensure that NHS designations in our region would provide connectivity for our people and businesses to the larger national and world economy. We want to note here that a critical point in that process was Senator Baucus' thoughtfully arranging for us to present our arguments directly to Secretary Peña at a hearing in Kalispell, Montana in 1993. So, as a result of further review, the NHS route proposal submitted by Secretary Peña and Administrator Slater to the Congress was greatly improved and is, by and large, a good one.* So, the map before the Congress today reflects, at least in our region, the national interest in:

- ensuring connectivity between urban and rural areas;
- ensuring that agricultural products and natural resources can move to market;
- ensuring the availability of corridors for trade and tourism; and
- providing access to Indian reservations, national parks, and other important areas.

In addition, we support the way in which the language of S. 440 would designate the NHS. S. 440 is consistent with the key points of the American Association of State Highway and Transportation Officials (AASHTO) resolution concerning NHS establishment. That resolution makes clear, among other things, that:

- States should have responsibility for NHS route and project selection. Others should be consulted and given a right to comment. However, only States should be given project selection authority or authority to allocate NHS funds.
- States should have flexibility in the use of NHS funds. Proposals by some for maintenance set asides, or multimodal project set asides, or for a prohibition on the use of NHS funds for new capacity, should not be adopted.

So, we are pleased that the NHS provision before the Committee would not restrict the State role in the NHS program.

INCREASE HIGHWAY PROGRAM FUNDING

Before turning to regulatory issues, let me briefly reaffirm our strong support for full funding of ISTEA, and of the highway program in particular.

We know you have previously heard from AASHTO and from private sector witnesses on the benefits of fully funding transportation programs. And we know that you have also been reminded that these programs are financed by user taxes, users who want to see their taxes put to work promptly.

Simply, we agree that highway spending is a good investment, and that we owe it to the taxpayers to put their user taxes to work.

We recognize that this Committee and the Congress as a whole may have to address highway funding in a variety of contexts this year but, without knowing precisely how the issue will be framed, our main point is this—highway funding deserves strong financial support, whether it be in the context of budget reconciliation, appropriations, or elsewhere.

Our support for full funding of the highway program is particularly strong because, due to technical provisions of the law, when the Act is not fully funded, our States lose more in "highway" funds than the "average" State. Let me explain.

Funding provided through the highway apportionment formulas is subject to the "obligation ceiling." So, when apportioned funds exceed the ceiling, they are reduced pro-rata, until the ceiling is reached. Our States receive nearly all of our highway dollars from apportioned, formula funds. However, there are other types of ISTEA funds. Many States get a much higher percentage of their highway funding from specifically named projects and minimum allocations, items which are exempt from the obligation ceiling. Our States receive relatively little funding from exempt categories, and are therefore disproportionately hurt by less than full funding of the Act. In short, under present law, the pain of a funding shortage falls disproportionately on us. So, we strongly support full funding of the highway program.

On a point related to funding, we are supportive of efforts to more broadly authorize States to use "innovative financing" techniques. The idea is to allow States greater flexibility to determine how they will match Federal dollars in funding projects. This can sometimes result in projects being advanced more promptly. USDOT recently, and commendably, waived current financing rules for a number of projects in many States, including Idaho, Montana, and South Dakota, to allow certain project activities to go forward in ways desired by States but not ordinarily permitted. Such flexibility should be made permanent, and any technical or minor

*The Wyoming Department of Transportation recommends reconsideration of USDOT's failure to designate several highways in that State as NHS routes. We support Wyoming's request.

amendments to current law needed to achieve that goal should be passed. Section 7 of S. 440, allowing private in kind donations to be applied toward a State's project matching share is one such change. It should be adopted.

We have one word of caution. Providing new options and flexibility to States should be just that—more options and flexibility. Proposals for "innovative financing" should not force States to stop using current techniques, or to require States to seek USDOT approval to continue using current techniques. New legislation should simply allow new options, not restrict the use of old ones or set aside any particular amount of funds as available only in conjunction with innovative financing We make this point because, in its initial presentations of its reorganization proposal, USDOT indicated that use of certain State "infrastructure banks," a new financing technique, would be mandatory. We have already noted that we do not think major change in USDOT programs is warranted. However, to the extent Congress pursues innovative financing, we want to be clear that it should in no way be mandatory, only optional.

REDUCE REGULATIONS NOW

For years, highway program legislation has included provisions beyond those needed to make good transportation decisions and construct the projects selected. While we do not expect that there will ever be a highway or transit program without strings attached, we believe the time has come to stop loading more and more requirements, of greater and greater complexity, onto the programs. Instead, now is the time to reduce regulations.

Our concerns are both philosophical and with particular requirements. Philosophically, we believe the Federal highway and transit statutes should more fully respect the role of the States in our Federal system, allowing States more freedom to determine whether to impose various safety, environmental, planning, and other requirements on activities within their borders.

Moreover, we believe that the system has reached overload. We are now in an era where we are imposing more requirements and getting fewer services to the citizens, as more and more resources go into planning, regulation, analysis and other tasks. At least in our States this means delay, increased cost, and little benefit. It has become counterproductive. Delivery of services needs more emphasis and the States should be given more freedom to do that.

From that perspective, we offer one general and several specific suggestions for regulatory reduction.

SUNSET DOT RULES

In testimony before this Committee last Spring we suggested that USDOT undertake a review of the requirements it imposes on all recipients of FHWA and FTA funds for the purpose of eliminating or reducing as many of them as possible. This did not happen right away. However, earlier this month, on March 4, President Clinton directed all executive branch agencies to complete a "page by page" review of all of regulations by June 1, considering, among other perspectives, whether State or local government could do the job in question and make Federal regulation unnecessary. So, we are glad the President agreed with our general point. We hope the kind of review we recommended last Spring is now underway at DOT.

But we don't recommend that Congress wait for the agency to take action. We don't know when or if that will happen. We suggest that this Committee advance legislation directing USDOT to undertake a general review of all of its rules and regulations issued pursuant to the highway program (title 23 of the U.S. Code) for the express purpose of reducing the regulatory burden on grant recipients. Such legislation should provide that any requirement based on title 23 which is not repromulgated by USDOT within a set time, say 2 years, would be void. This, we think, would be an excellent way to make clear to the Department that it has to go beyond review and actually drop those rules that are not truly important.

From that general suggestion on reducing rules, let us turn now to some specific requirements which should be eliminated or curtailed.

MANAGEMENT SYSTEMS SHOULD BE MADE VOLUNTARY, OR AT LEAST CUT BACK

We were delighted that, in recent testimony before the House Surface Transportation Subcommittee, California and Wisconsin each asked that ISTEA's management systems be made voluntary. AASHTO has similarly identified the management systems as a major problem for all States.

Mr. Chairman, since ISTEA, the agency took a six line directive by Congress for management systems and turned it into 17 very small print pages in the Code of Federal Regulations. AASHTO has testified that it would cost Virginia $50 million

to implement several of the systems, and I assure you that all States are having to divert significant dollars and personnel to regulatory compliance from delivery of improvements that are sorely needed.

We don't think that this was what Congress intended.

Yet failure to comply with these rules can subject a State to sanctions. For example, if we don't undertake life-cycle cost analysis on certain classes of projects, or meet other requirements set forth in the rules, there is at least a risk that the agency could find that our management system is not acceptable, which could mean sanctions. So, to avoid that risk, we in the States start to change our behavior, to comply with rules, even if those rules are inefficient, needlessly costly, or even counterproductive.

We think the most straightforward way to cut through this thicket is to delete from the statute DOT's authority to impose sanctions for failure to comply with management systems. Essentially, Congress should turn these systems into voluntary guidelines.

Mr. Chairman, we really ought to stick our toes in the water first sometimes, before we jump in. That philosophy was not followed in development of the management systems—or the overly complicated and prescriptive planning rules, either. We strongly recommend that Congress turn these overly complicated rules into guidelines, so that States would not be subject to sanctions for failing to follow their many prescriptions. If, based on experience over the upcoming few years, it turns out that there are problems that should be addressed by rule, the agency should present that view to Congress after it has experience. Then there would be an informed debate on the desirability of imposing costly rules before they are imposed.

Let me turn now to some specific issues with the managements systems. If the systems cannot be made voluntary, then at least some particular problems should be corrected.

Overbroad Data Collection Requirements

One major concern is the amount of additional data and information that the States will have to collect to comply with the planning and management system requirements. The FHWA should minimize the volume of data collection that is tied to the statewide plan and management systems. It is time consuming and costly to collect information that does not have a major impact on the decisionmaking process.

For example, USDOT has decided that the safety management system must apply to all public roads. States are therefore required to extend the system over many roads that have long been placed in the jurisdiction of other entities within the State. In Montana, there are roughly 70,000 miles of public roads but only 8,127 are under the jurisdiction of the State. The rest are under the control of 184 local governments or the Federal Government. Similarly, in Wyoming there are approximately 39,000 miles of public roads, with only 6,770 are under the jurisdiction of the State DOT. The other 32,230 are the responsibility of some 120 local governments and the Federal Government. For States like ours to develop a safety management system for the tens of thousands of miles of roadway not under our direct control has become a near impossible task. It involves reviewing accident history and road conditions, then prioritizing needs, seeking local support and funding, and developing an improvement program. This is an activity that is inefficient and, in our view, represents an extraordinarily low payoff for the effort.

Similar requirements are included in the pavement management system. ISTEA requires that a pavement management system be developed for all Federal-aid highways. Some Federal-aid highways are under the jurisdiction of relatively small (500–15,000 population) cities and counties that either are not receptive to the State's pavement management process or do not want to participate in the funding of a pavement management system. In other cases, the paved mileage under the jurisdiction of these local governments is so limited the development of a sophisticated pavement management system is not cost effective. We don't think that the Congress, in passing ISTEA, intended that States would have to enact controversial State legislation to shift jurisdiction of roads from local governments to State DOTS. Yet, under the proposed rules, without cooperation of local governments on technical issues, States could have funds withheld unless they resort to such drastic actions in order to obtain the required data.

Life-Cycle Cost Analysis of Routine Projects Should Not Be Required

The apparent requirement for life-cycle cost analysis, included in the pavement and bridge management systems, is overbroad. Undertaking this special extra layer of analysis on routine, smaller projects is not a wise use of resources. But the rules

point us that way. Congress should preclude FHWA from requiring life-cycle cost analysis on all but the largest projects.

Recognize That Some Problems Arise Infrequently In Rural States

Other reforms of the systems that would be appropriate if Congress does not make them completely voluntary, would be to exempt rural States from the congestion management, public transportation facilities, and intermodal facilities systems requirements. It's not that we don't want to address these kinds of issues. It's just that, in our States, they are addressed when appropriate and rarely are an issue. We shouldn't have to direct scarce management resources to prepare general plans for systems that were developed with big States in mind. Even so, as noted earlier, the biggest State, California, opposes all the management systems, telling the House Surface Transportation Subcommittee that it was difficult to see the "value added" by "onerous" management system rules.

Another way of partially improving the situation would be to limit the pavement management system to NHS routes.

Mr. Chairman, we could go on further on the management systems, but simply want to say, at this time, that legislation is appropriate. While, in an ideal world, the agency would fix these kinds of problems promptly, it was the agency which created them in the first place. We think Congress should enact statutes to ensure that we really cut back on these regulations.

THE CRUMB RUBBER UTILIZATION REQUIREMENT SHOULD BE REPEALED OR AT LEAST VERY SUBSTANTIALLY REDUCED

A specific requirement imposed on the highway program which should be repealed, or at least very substantially scaled back, is the so-called "crumb rubber" requirement of Section 1038(d) of ISTEA.

We have major concerns, both philosophical and economic, with this provision.

It prevents States from deciding, based on cost and engineering considerations, which types of pavement to utilize. The provision requires a State to utilize crumb rubber in a portion of its asphalt pavement projects, even if it has engineering doubts about the material. It imposes this requirement even though this material is far more expensive than regular asphalt, requiring us to cut back on other projects in order to use crumb rubber on some. Yet, if States do not comply, they face penalties. Either way, our ability to deliver services is reduced.

Fortunately, Congress has imposed a moratorium on enforcement of the provision in appropriations legislation, so this requirement has not yet taken effect.

However, even with the moratorium in effect today, the provision is currently set to take effect during fiscal year 1996. Under it, a specified minimum percentage of asphalt pavement laid by a State, which is financed in whole or part by Federal highway funds, must contain recycled rubber from scrap tires. This percentage is set at 15 percent for 1996, increasing to 20 percent in 1997 and thereafter. Any State which does not comply with this requirement would be penalized by withholding a percentage of certain highway funds equal to the annual recycled rubber asphalt utilization requirement. This penalty is extraordinarily severe and would be crippling to any State's entire highway program.

The reduction of the number of scrap tires in land fills around the country is a laudable goal. There are many problems with section 1038(d)'s approach to achieving it, however: substantially increased costs for asphalt pavement; the resulting reduction in projects that can be undertaken with given funds; the lack of availability of scrap tires within some States; denial of program credit for use of scrap tires in other than pavement, including but not limited to other highway uses; harsh sanctions; and concern for unresolved technical, environmental and health questions associated with the use of recycled rubber asphalt pavement.

Let me also note here, Mr. Chairman, that, after passage of ISTEA, some of our States took the initiative to undertake projects utilizing crumb rubber. We wanted to get experience with this costly material, both in general but particularly because of the possibility that a requirement would be imposed. Unfortunately, two of those projects failed very prematurely, one in Idaho, one in Montana. The States thus not only incurred extra costs at the outset, but major costs to rehabilitate the failed pavement.

For these and other reasons, the States have been highly unified in their opposition to section 1038(d). We are not against allowing a State to use this material if it wishes, but we are strongly against the mandate of section 1038(d).

Thus, we are pleased that Congress has begun to respond to our concerns. First, a moratorium on enforcing this mandate has been included in the last two DOT appropriations acts. Second, the administration's budget has recommended continuation of the moratorium. Third, in the House, a bipartisan group commendably has

introduced legislation to repeal section 1038(d). (H.R. 1242, Representative Pryce of Ohio). Also, last year, the House authorizing Committee developed what has been referred to as a crumb rubber "compromise," passed by the House last year as section 108 of H.R. 4385.

Let me briefly comment on that compromise provision. We were not parties to that compromise; we would prefer repeal or a more significant reduction of the requirements of present law than was contained in section 108 of H.R. 4385. That provision did move in the right direction, however.

Most importantly, it would make section 1038(d) a temporary provision, ending the crumb rubber requirement after 1997. In addition, that provision would lower crumb rubber utilization requirements, reduce penalties for noncompliance, and facilitate achievement of compliance through uses of crumb rubber other than in pavement. These are improvements over present law.

However, we feel strongly that, by mandating a 15 percent crumb rubber utilization requirement in fiscal year 1997, that "compromise" provision sets far, far too high a requirement for a temporary program. Also, there are restrictions on alternative ways to comply with the utilization requirement; the provision did not broadly authorize alternatives uses. So, while that compromise provision represented progress, we still recommend repeal and, if repeal is not possible, reduction of the requirement beyond that which was included in section 108 of H.R. 4385.

Finally on this point, if authorizing legislation repealing or very substantially modifying section 1038(d) cannot be passed by September 30, we think it essential that Congress continue the moratorium on enforcement of section 1038(d) in the upcoming DOT appropriations act.

LET STATES DECIDE HOW TO ADDRESS MOTORCYCLE SAFETY

Under section 1031 of ISTEA, States which do not pass State laws requiring both the use of motorcycle helmets and seat belts will have to divert highway construction funds into a highway safety program, to be spent on efforts to encourage the use of these devices.

We support efforts to improve highway safety but oppose the means taken in section 1031 of ISTEA to advance that goal. Simply, we oppose the use of Federal mandates and sanctions to pressure States into enacting mandatory seat belt and motorcycle helmet use laws.

We would like to see section 1031 repealed, or at least that portion of it (codified at 23 U.S.C. § 153(h)) which imposes penalties on States for not having such laws. We are very pleased that so many Senators are sponsoring or co-sponsoring such legislation. However, if repeal is not achievable, we could support a number of reforms which would at least partially reduce the burden imposed on States by this provision.

One is set forth in S. 234, introduced by Senator Campbell. Under S. 234 a State would not be sanctioned if it either has a mandatory motorcycle helmet use law or a motorcycle safety program administered by the State.

Under this bill, even though a Federal mandate unfortunately would be continued, the particulars would change. Each State would then have the freedom to develop its own motorcycle safety program in lieu of a helmet law.

Another reform to section 1031 of ISTEA which we could support—and which could be combined with S. 234—would be to modify the current language linking penalties to a State's passage of both mandatory seat belt and motorcycle helmet use laws. Under current law, if a State has not adopted either a seat belt or helmet law, there is no incentive left to pass the other; the penalty is the same whether the State fails to pass both such laws or only one. So, if the law cannot be amended to completely eliminate sanctions and penalties in this area, at least the penalty should be reduced so that only 50 percent of the penalty would apply if a State passed one of the two required laws.

Another particular problem with the current law is the penalty. It forces the States which are sanctioned to reduce their highway construction programs and significantly increase their section 402 safety programs, even if section 402 activities are not a State's top *safety* priority. Allowing a state the flexibility to spend funds transferred from construction programs, as a result of sanctions, to *safety* construction programs—such as installing traffic control signs and lights, guard rails, and improved rail grade crossings—would also improve section 1031 of ISTEA.

Let me be clear, we prefer legislation which would repeal all sanctions in this area. However, if that cannot be achieved, at least partial reforms should be adopted.

CONFORMITY RULES SHOULD NOT BE AN END IN THEMSELVES

Another area of concern is the "conformity" requirements which the Clean Air Act attaches to transportation decisions. From the perspective of rural States, any regulations requiring a determination of conformity with clean air standards for areas that are in "attainment" will require spending a considerable amount of resources for nonproductive purposes.

We know that the question of whether attainment areas are subject to conformity rules has been the subject of hot legal debate and has been contested both before agencies and in court.

Congress should resolve the issue by making clear that conformity analysis may not be required in attainment areas. Otherwise, we will have essentially elevated the regulatory analysis required by conformity to an end in itself. We think there are enough real problems for government to study and solve; we don't need to delay delivery of services by analyzing the non-problem of how clean air in rural areas might be affected by routine highway projects.

VALUE ENGINEERING RULE SHOULD BE PRECLUDED

The FHWA has recently proposed that a very substantial portion of our highway projects be subject to value engineering reviews. Value engineering is an expensive professional exercise. A team of engineers not associated with the initial work is to come in and play devil's advocate with the entire project scheme in an effort to improve project cost effectiveness. We're not saying that this should never be done, but it should be up to a State to decide how often.

Most of today's highway projects in our States, and in the Nation as a whole, involve either reconstruction of or very incremental modification to roads—such as widening shoulders. We are not building many new roads or facilities. The engineering issues are straightforward. A major road is breaking up, we need to reconstruct it along the same alignment. For this, USDOT would require value engineering and life-cycle cost analysis. This means delay and administrative cost, not progress. We don't like it.

We recommend that Congress preclude the agency from imposing either value engineering or life-cycle cost analysis requirements, except perhaps with respect to the largest and most unique projects, those where it could be possible to get some value from undertaking the extra reviews.

FHWA METRICATION PROGRAMS ARE RIGID AND COUNTERPRODUCTIVE

Section 8 of S. 440, Mr. Chairman, would preclude the Federal Government from requiring States to erect or modify highway signs which portray information using the metric system.

Given the many competing and higher priorities for transportation dollars, erecting or modifying signs so that they portray information using metric measures should be, at best, a low priority use of funds. You were correct to include this provision in your bill.

We believe the provision should be broadened and strengthened, however. First, as a technical matter, the prohibition should protect not only "states" but "states and their political subdivisions" from the risk of a Federal agency mandate to utilize metric signs.

But, more importantly, Congress should also address FHWA's plans to require States to convert their activities and business operations to the metric system of weights and measures by September 30, 1996. FHWA's metric conversion plan requires that all highway construction plans, specifications and estimates be prepared in metric units of measurement by September 30, 1996—or Federal highway funds will not be authorized for such projects. This is an ultimate unfunded Federal mandate and an extraordinary sanction.

Conversion of our internal processes to the metric standard will require us to absorb the cost within our own budgets at a time when infrastructure needs continue to increase, and when we are being asked to reduce administrative costs to the greatest degree possible. This diversion of millions of construction and maintenance dollars from the nation's highways and bridges will inhibit rather than enhance productivity. The costs associated even with internal conversion are in the millions, and include tasks ranging from rewriting highway and transportation design procedures and manuals to the retraining of workers and contractors throughout the public and private sector.

Nonetheless, FHWA insists on its metric conversion plan. It does so even though implementing it will be costly to State and local transportation agencies, though there will be no significant benefits, even though funds spent on metric conversion

will not be available for infrastructure investments, and even though few, if any, other Federal agencies are converting at this time.

Further, we believe these requirements will cause disproportionate harm to small contractors who can't readily afford to divert resources to metric conversion and may become disadvantaged in competing for projects.

At this point in time there is no AASHTO resolution on internal metric conversion and, due to FHWA's position, many States have made outlays to convert their internal systems to metrics.

We certainly do not want to force any State that has converted to metrics to have to convert back to English units. But Congress can still address this problem, and allow States like ours to invest more in infrastructure and less in regulatory compliance while being fair to our small contractors.

There are two possible approaches—either would be a good step. One would be to add a new subsection to section 8 of S. 440 delaying FHWA's 1996 date for "internal" metric conversion until the year 2000 or later. The other would be to allow a State to obtain a waiver from the requirement by filing a certification with the Secretary of Transportation that, in its opinion, the conversion of internal processes to metrics will divert an unacceptable level of the State's resources from infrastructure investment and will work a disproportionate hardship on small contractors. In short, we recommend that the Committee add language providing relief from internal metric requirements to section 8 of the bill.

ENHANCEMENT PROJECT DELIVERY IS HAMPERED BY RULES

The enhancement program is particularly difficult to deliver, and we question that it should remain mandatory. Passage of the enhancement portion of ISTEA has made it necessary for the States to look at many nontraditional programs (historic preservation and landscaping, for example). The publicity tied to the enhancement portion of ISTEA created enormous interest among local jurisdictions and nontraditional transportation groups. In rural States with relatively limited resources, both for enhancements and traditional transportation projects, the amount of funding going to each individual enhancement project is relatively small. Although local jurisdictions and others are very excited about receiving enhancement funds, they quickly become disillusioned when they find out they must meet all title 23 requirements and other Federal regulations in order to use even the smallest amount of enhancement funds. Whether or not the enhancement set-aside remains mandatory in the long term, the title 23 burdens need to be lifted from these small projects if we ever want to effectively deliver enhancement projects to local jurisdictions and others.

STATE TRANSPORTATION PLANNING RULES ARE TOO PRESCRIPTIVE

Much of what we said earlier about Management Systems also applies to planning requirements. The planning rules have become overly prescriptive and detailed. We recommend the Congress amend the State transportation planning provision of title 23 so that State transportation improvement plans are not the subject of Federal approval, but only of Federal-State consultation.

If the planning rules cannot be made voluntary, there are some less sweeping changes which should be made. In practice, FHWA and the Federal Transit Administration (FTA) each approve the transportation improvement program (TIP). In our view those agencies could better coordinate their review of TIPs. In at least one of our States, the lack of a single point of contact for the State with respect to TIP approval meant that the State DOT was bounced back and forth between FHWA and FTA during the review process, so that approval was delayed until well into the current fiscal year. While we recommend that USDOT's role in TIPs be changed from one of approval to one of consultation, if approval is to be required, Congress should require USDOT to offer a single point of contact for obtaining TIP approval.

Finally, we note that the public involvement guidance for the planning and TIP process recently published by USDOT is far too detailed. Under that document it is readily imaginable that many States will fail to follow the guidance in some minor way, and find some disappointed party filing papers at USDOT urging USDOT not to approve the State's TIP on the rounds of less than perfect conformance with this guidance on process. We think that, if there is to be guidance in this area, it needs to be more general. Again, making the TIP process consultative rather than one of USDOT approval would effectively solve this problem.

CONCLUSION

Mr. Chairman, in sum, you are right to pursue prompt passage of NHS legislation. We want to cheer you on and help get that done.

As to the budgetary issues, we know those are tough, but the highway program deserves support. It is user financed and provides real benefits. We urge all of you to strongly support funding for the program in whatever legislative context the issue is raised.

Finally, we urge the Congress to seize the opportunity presented by today's broad consensus that our nation should cut back on rules and regulations. We have made a number of suggestions today and are prepared to support them with technical assistance. What we should not do is, even with good intentions, pass the buck to the agency and then find out, years from now, that the regulatory climate has changed and that the excessive rules were never deleted. We urge that you and your colleagues not be passive on this front and pass some clear provisions reducing requirements.

That completes our statement, Mr. Chairman. At this time we'd be pleased to respond to any questions you or other members of the subcommittee may have.

STATEMENT OF FRANK CARLILE, P.E., ASSISTANT SECRETARY FOR TRANSPORTATION POLICY, FLORIDA DEPARTMENT OF TRANSPORTATION

Mr. Chairman, thank you for the opportunity to appear before this Subcommittee to present the views of the Florida Department of Transportation (FDOT) concerning the National Highway System and other related transportation requirements.

NATIONAL HIGHWAY SYSTEM

We in Florida have long supported an established National Highway System or NHS. In fact, Florida DOT Secretary Ben Watts has already testified before the full Environment and Public Works Committee in favor of a national system of highways. What's interesting is that he did so back on May 14th of 1991!

Testifying prior to enactment of ISTEA, Secretary Watts said, "There should be a continued national interest in an identified national network of highways. The Florida DOT endorses the U.S. DOT and AASHTO recommendations calling for a focused highway network of 150,000 to 200,000 miles nationwide. Rather than being viewed as an expansion of the 44,000 mile Interstate System, the Federal-aid highway network would be significantly reduced from its present 800,000 miles."

The benefits of a National Highway System have become more not less obvious in the nearly 4 years since Secretary Watts made his comments. The Florida Department of Transportation urges Congress to move swiftly to enact legislation designating the NHS.

RECYCLED TIRES—PAVING THE WAY TO A CLEANER FLORIDA

At the request of the committee, I am also pleased to share the Department's experiences with rubberized asphalt. The Florida DOT believes that by adding recycled waste tires to asphalt we are quite literally helping pave the way to a cleaner future.

Each year, Americans dispose of about 250 million tires. Florida alone generates more than 10 million waste tires annually. That's almost one tire for each Florida resident. With these growing mountains of waste tires, environmental concerns are also growing.

Since landfills will not accept whole tires, safe and efficient tire disposal isn't easy. When unwanted tires are illegally dumped, disease-carrying insects and vermin use them for a breeding ground. But these are not the only environmental problems that result from illegal tire dumping. When they catch fire, tires are extremely difficult to extinguish and can create significant amounts of air, ground and water pollution.

The Florida Department of Transportation has taken a leading role in recycling waste tires back into pavement. In the late 1970's the Department began studying the use of ground tire rubber in asphalt and in 1988 the Florida Legislature enacted Senate Bill 1192 directing the study of various waste products (including tires) for possible use in road building.

While using scrap tires on Florida's highways helps the environment, it also improves the roads. Asphalt modified with ground tire rubber can be used beneath the pavement to prevent the spread of cracking and serve as a moisture barrier. Applying rubberized asphalt to the driving surface of roads increases pavement durability and reduces wear. The result is a longer lasting road, requiring less maintenance.

Florida Governor Lawton Chiles has characterized the use of rubberized asphalt as a "win-win situation." In December 1993, Governor Chiles said, "we get a more durable road and we're doing something positive for the environment." Florida DOT

can recycle 10,000 tons of waste tires every year while building longer lasting roads in the process. Recycled rubber may extend the life of a road by 25 percent.

The Florida DOT's recycled rubber program is an environmental and transportation success story. Rarely do we in the transportation industry have a chance to not only improve our product, but also be part of the solution to a major environmental problem. Simply put, we think that recycling tires in the construction of roads is a logical solution.

Again, I appreciate this opportunity to present our views.

STATEMENT OF HON. WILLIAM ENOS, RHODE ISLAND STATE SENATOR

Mr. Chairman and members of the committee, first of all, let me thank you for the opportunity to address the committee on an issue of growing concern. The potential transfer of hundreds of thousands of dollars in ISTEA funds from highway construction to highway safety programs has far-reaching implications, not only for Rhode Islanders, but for your constituents as well.

Rhode Island is not the only State which has failed to pass a mandatory motorcycle helmet law since the Intermodal Surface Transportation Enhancement Act of 1991 was enacted. There are 25 other States which will have highway construction funds withheld in fiscal year 1995, for a total of more than $56 million. In Rhode Island, where the New England climate requires a consistent program of road repairs and reconstruction, more than $600,000 will be transferred from highway construction accounts into highway safety accounts. For a State of less than a million people, $600,000 is substantial. To illustrate this point, the total fiscal year 1995 budget of the Governor's Office on Highway Safety was $137,000, an amount which already allows the office to serve the State effectively and efficiently.

There is a clear need for Rhode Island to continue to support highway construction and reconstruction activities. As technology, design, and education have steadily improved, traffic injuries and fatalities (including those related to motorcycles) have declined. In the case of Rhode Island, the old maxim of "if it isn't broke, don't fix it" applies; there is no evidence to suggest that transferring funds from highway construction to highway safety accounts will increase the effectiveness of safety programs. Instead of offering an incentive for attaining a goal (additional funding in the fiscal year that traffic fatalities decline by X percent, for example), this requirement forces on particular system upon all the States.

The 10th Amendment of the constitution provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." In a year when the "new Congress" has emphasized change and has stressed the importance of becoming less involved in "micro-management", the fundamental intent of this clause seems to be wresting control of traffic laws away from the States.

Furthermore, although section 153 of title 23 U.S.C. does not *mandate* motorcycle helmet laws, it strongly suggests the implementation of such laws. In a year when unfunded mandates are a target of Federal legislation, it may be said that section 153 is an unfunded suggestion.

Section 153 also has a negative economic impact on the State of Rhode Island. The Federal Highway Administration has stated that every $1 billion in highway construction moneys creates 60,000 jobs. Although the funding is not being rescinded, the transfer of funds will result in the loss of approximately 40 construction jobs. These are difficult economic times, and Rhode Island has been hit hard by defense cutbacks, as well as the national recession. If each job paid $30,000, the impact on the Rhode Island economy could be greater than $1.2 million.

I am not here merely to criticize the policy choices which have been made; I have also come to discuss some of the reasons why mandatory motorcycle helmet laws are not the only effective safety solution. Please take a moment to look at the attach graph entitled "Rhode Island Motorcycle Safety Since 1969". As you can see from the figure, the number of motorcycle riders in Rhode Island has increased dramatically since the late 1960's (as represented by the grey bars). If you examine the figure, you will also see that the number of deaths related to motorcycle accidents have declined significantly in proportion tot he number of motorcycle riders on the road. In 1976, the last year that the motorcycle helmet law was in effect, there was more than 1 death per every 1,000 riders (18 deaths, 14,000 riders). In 1994, there were less than .5 deaths per 1,000 riders (9 deaths, 21,000 riders).

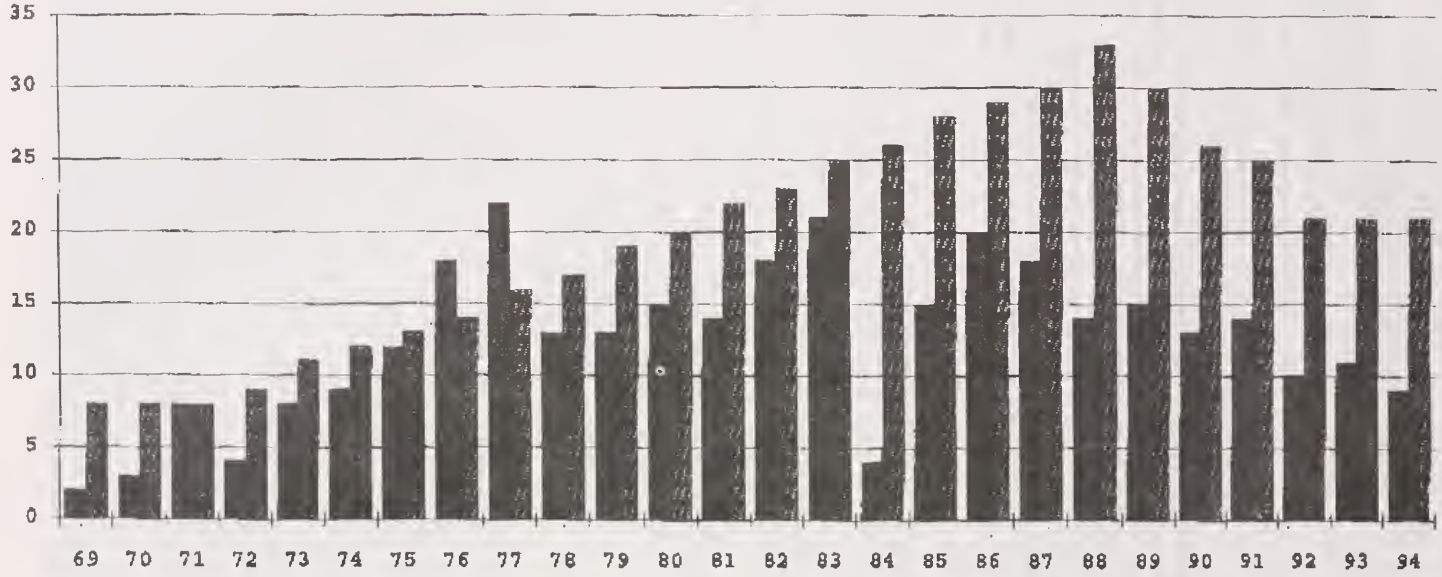
Some proponents of motorcycle helmet laws maintain that riders who choose not to wear helmets and who are involved in accidents are a fiscal burden that the taxpayers should not have to bear. However, Medicaid does not specify how a patient sustained a critical injury, so there is no method to determine how much motorcycle-

related injuries may be costing Rhode Island taxpayers. In a recent interview, the head of Rhode Island State General Hospital's head injury unit, Dr. Sharon Zupka, stated that of the 20 head injury patients in the unit, 2 were involved in motorcycle-related accidents and both accidents had involved alcohol.

In 1993, the number of fatalities per 10,000 registrations was lower in Rhode Island than in many States with motorcycle helmet laws. Massachusetts, which has applied strict helmet wearing standards to motorcycle riders, has a fatality rate a full point higher than Rhode Island (5.85 compared with 4.79). Much of this success can be attributed to motorcycle rider education programs, which were first implemented in 1980. Again, referring to the attached graph, it can be seen that since rider training began, fatality rates have continued to decline. Furthermore, Rhode Island also had the second lowest rate of all motorcycle accidents per 10,000 riders, behind only Oregon, which has a helmet law in place.

Improving motorcycle safety is an issue that merits continued discussion, education, and awareness. However, mandatory helmet laws are not necessarily the only, or even the best, solution to creating roads which are safer for drivers of all motor vehicles. It is important to recognize that there are 50 States with 50 distinct governments and diverse populations. While motorcycle helmet laws may be appropriate in some States, other States seek the opportunity to test new policies, allow riders the opportunity to be responsible for their own safety, and focus on maintaining existing infrastructure and programs. The transfer of funds from construction to safety may be intended to pressure States into enacting helmet laws, but you cannot legislate common sense. A dangerous driver will be just as dangerous with or without a helmet.

Rhode Island Motorcycle Safety Since 1969


35
30
25
20
15
10
5
0
69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94
1976: Helmet law repealed. 1980: Rider training program began.
Deaths
Thousands of Motorcycle Riders

STATEMENT OF SHERMAN PACKARD, NEW HAMPSHIRE STATE REPRESENTATIVE

Dear Mr. Chairman and members of the committee, My name is Sherman Packard and I am a third term State Representative in the New Hampshire House, serving my third term on the House Transportation Sommittee. I am also, a member of the Transportation Task Force of the American Legislative Exchange Council (ALEC).

I will provide a brief history on the subject matter. With the passage of the Highway Safety Act of 1966, Congress included a section which stated that upon failure of any state to adopt certain sections of the act that they would be penalized, by withholding of highway funds. Though there were many items that were part of these penalties, they were selectively enforced. One of the articles was that every state pass a mandatory helmet law for all operators and passengers. This particular section was chosen by NHTSA, to aggressively pursue to the extent that by the early 70's only two or three states had not complied. Early in 1975, a bill was introduced into Congress to repeal the penalty clause that mandated motorcycle helmets. President Ford signed that bill into law in May 1976. Within the next few years over 30 states either amended or repealed their laws concerning the mandating of motorcycle helmets. Then came the Intermodel Surface Transportation Efficiency Act of 1991. In that Act, specifically Section 153 of the Title 23 U.S. Code, it states that any state that does not pass a law mandating seat belts and motorcycle helmets for all it's citizens, that money will be taken from that State's allocated highway construction funds and diverted to the Governor's Office of Highway Safety (or similar office).

It seems ironical that exactly 20 years later we are here again, asking you for the same consideration, Congress granted 20 years ago. that is, to let each State's legislative body deal with this issue on the merits of the issue, and not be forced to pass legislation because it faces Federal sanctions.

I don't think that anyone questions government's role in providing care for the elderly, sick, disabled or those truly unable to care or provide for themselves. We must also provide, the citizens of our community the protection they need from being victimized by criminals. Yet, through the years as elected officials, we have become far to dictatorial in our efforts to try and create utopia. Some continue to believe that we will solve everyone's problems by just passing a new law or giving an agency more rulemaking or regulatory authority than necessary.

Not only are we continuing to extract more money out of everyone's paycheck, but we are also abating people's natural ability to solve complex or even simple issues because of our overbearing governmental paternalism.

I believe that we are at a point in the evolutionary process of our system of government that compels us to stop and take a prognostic view of our future.

Let us look at New Hampshire's safety record and its voluntary compliance concerning motorcycle helmets and safety belts. The State of New Hampshire has a voluntary seat belt use rate of over 50 percent, which is higher than many states that have mandatory laws, and continues to rise through excellent educational programs New Hampshire has instituted. Since the institution of our state run motorcycle education program (which has won national awards) New Hampshire motorcycle accidents and fatalities continue to be among the lowest in the country. New Hampshire has proven that through the proper education, citizens will make the proper decisions regarding their own safety. The State need not pass laws mandating such actions. It is felt by most of my colleagues, that government was given a message on November 4, 1994. I feel that we should deliver to the American people the relief from government regulation they so much desire and deserve.

In closing, I respectfully request that on behalf of my legislative colleagues across the country that this committee start down the road of regulatory relief, and include in the National Highway System Bill the provisions of H.R. 607 and H.R. 899. By that action, you will be returning to the States, the rights that were granted to them by the 10th Amendment in the Constitution.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

RESOLUTION OPPOSING THE INTERMODAL SURFACE TRANSPORTATION ACT OF 1991 ENCROACHMENT ON STATE SOVEREIGNTY

SUMMARY

ALEC's resolution requests the U.S. Congress to repeal the sanctions and Federal mandates in the Intermodal Surface Transportation Act of 1991. State sovereignty

is increasingly under attack and States must be given the authority to choose their best course of action.

MODEL RESOLUTION

WHEREAS, the Tenth Amendment to the U.S. Constitution reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and

WHEREAS, the limits on congressional authority to regulate State activities prescribed by the Tenth Amendment have gradually been eroded and Federal mandates and sanctions to the States have become excessive; and

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) having had inserted into it, an unreasonable excess of sanctions and Federal mandates, thus not allowing States the ability to regulate funds or issues in a manner that will best serve the State or its citizenry; and

NOW THEREFORE BE IT RESOLVED, That the American Legislative Exchange Council, respectfully request that the U.S. Congress repeal those sanctions and Federal mandates in ISTEA and that it refrain from infringing upon the sovereignty of the States as guaranteed by the U.S. Constitution in the future.

BE IT FURTHER RESOLVED, That a copy of this Resolution be forwarded to each and every member of the Congress of the United States.

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

FUNDS TRANSFERRED TO THE SECTION 402
HIGHWAY SAFETY PROGRAM PURSUANT TO
SECTION 153 OF TITLE 23 U.S.C

STATE	NATIONAL HIGHWAY SYSTEM	CONGESTION MITIGATION AIR QUALITY	SURFACE TRANS PROGRAM	HOLD HARMLESS	TOTAL	FY 1995 OBLIGATION LIMITATION
ALABAMA	0	0	0	0	0	0
ALASKA	789,623	73,466	1,720,866	428,835	3,012,790	2,732,601
ARIZONA	669,680	200,052	954,465	300,861	2,025,078	1,836,746
ARKANSAS	0	0	0	0	0	0
CALIFORNIA	0	0	0	0	0	0
COLORADO	784,625	73,466	1,021,600	0	1,879,691	1,704,880
CONNECTICUT	849,594	350,544	1,527,783	0	2,727,921	2,474,224
DELAWARE	254,878	73,466	395,627	77,318	801,289	726,769
DIST OF COL	0	0	0	0	0	0
FLORIDA	0	0	0	0	0	0
GEORGIA	0	0	0	0	0	0
HAWAII	259,875	73,466	969,534	0	1,302,875	1,181,709
IDAHO	389,813	73,466	584,184	363,090	1,410,553	1,279,372
ILLINOIS	1,939,074	729,999	2,506,340	1,573,563	6,748,976	6,121,321
INDIANA	1,089,480	167,861	1,548,115	0	2,803,476	2,542,753
IOWA	784,625	73,466	987,034	266,074	2,111,199	1,914,658
KANSAS	714,858	73,466	776,359	329,351	1,893,854	1,717,726
KENTUCKY	824,606	109,554	1,048,803	0	1,982,963	1,798,547
LOUISIANA	0	0	0	0	0	0
MAINE	314,849	73,466	395,949	90,399	874,663	793,319
MARYLAND	0	0	0	0	0	0
MASSACHUSETTS	949,546	613,561	232,519	359,435	2,155,061	1,954,640
MICHIGAN	0	0	0	0	0	0
MINNESOTA	869,584	73,466	1,206,287	972,077	3,121,414	2,831,123
MISSISSIPPI	0	0	0	0	0	0
MISSOURI	0	0	0	0	0	0
MONTANA	549,737	73,466	690,742	484,536	1,798,481	1,631,222
NEBRASKA	0	0	0	0	0	0
NEVADA	0	0	0	0	0	0
NEW HAMPSHIRE	304,854	73,466	434,293	60,158	872,771	791,609
NEW JERSEY	0	0	0	0	0	0
NEW MEXICO	534,744	73,466	678,941	776,837	2,063,988	1,872,037
NEW YORK	0	0	0	0	0	0
NORTH CAROLINA	0	0	0	0	0	0
NORTH DAKOTA	374,821	73,466	615,227	195,240	1,258,754	1,141,690
OHIO	1,809,136	608,996	1,875,929	368,078	4,662,139	4,228,560
OKLAHOMA	764,635	73,466	931,225	285,519	2,054,845	1,863,744
OREGON	0	0	0	0	0	0
PENNSYLVANIA	0	0	0	0	0	0
RHODE ISLAND	259,875	67,237	325,168	0	672,280	609,758
SOUTH CAROLINA	739,646	73,466	883,260	0	1,696,372	1,538,609
SOUTH DAKOTA	414,802	73,466	611,431	267,310	1,367,009	1,239,877
TENNESSEE	0	0	0	0	0	0
TEXAS	0	0	0	0	0	0
UTAH	474,773	73,466	443,828	144,977	1,137,044	1,031,299
VERMONT	274,868	73,466	338,037	81,303	767,674	696,260
VIRGINIA	0	0	0	0	0	0
WASHINGTON	0	0	0	0	0	0
WEST VIRGINIA	0	0	0	0	0	0
WISCONSIN	839,599	186,937	1,264,411	58,840	2,369,787	2,149,397
WYOMING	414,802	73,466	531,167	102,292	1,121,727	1,017,406
PUERTO RICO	0	0	0	0	0	0
TOTAL	19,240,802	4,450,615	25,417,154	7,586,103	56,694,674	51,422,069

STATEMENT OF HON. JOHN CULLERTON, ILLINOIS STATE SENATOR

Mr. Chairman and members of the committee, thank you for this opportunity to address the committee on an issue that is very important to the State of Illinois. I am State Senator John Cullerton, a 17-year member of the Illinois General Assembly. I have been the chief sponsor in our State of the child passenger safety law and the seat belt law, which have passed, and for the last 6 years I have been the chief sponsor of a mandatory motorcycle helmet law for Illinois that has not passed. Illinois is one of only three States that has no helmet law. I speak today in favor of retaining section 153 and the Federal incentive for Illinois and other States to pass important safety legislation.

The reason for passing the motorcycle helmet law in our State is obvious. It saves lives and saves taxpayers money. One only has to look at the experience in California to see that the death rate once these laws are passed will decrease dramatically. These reductions in fatalities answer the critics of helmet laws who say that helmets just don't work. A stronger argument that they propose is that the government should not interfere with people's lives and tell them what to wear. This argument is clearly countered by the fact that the government is intricately involved in paying for motorcycle crash victims, and that by requiring helmet use, the cost will be measurably decreased. And, after all, the government does have a greater role to play in the areas of health and safety. They say we shouldn't tell people what to wear and yet no one would suggest that we not tell motorists who cannot see very well that they cannot wear glasses. Instead of their motto of "Let those who ride decide," I say, "Let those who pay have the say."

So the next questions to be answered are: Why hasn't Illinois passed a helmet law, and what role should the Federal Government have in our decision? Illinois was the only State in the Nation that had its motorcycle helmet law declared unconstitutional by its Supreme Court. Because of Federal action, we passed a law back in 1968 and it stayed in effect for 17 months. The death rate fell by 28 percent, but then after the law was declared unconstitutional, the death rate jumped back up by 47 percent. It was only after the Supreme Court overruled the earlier decision that allowed us to introduce the motorcycle helmet legislation. But by then, the anti-helmet group ABATE was very active in campaigning against legislation by not only writing letters to legislators, but in working in elections to support candidates who would support their position.

ABATE's members believe that this helmet law is probably the most important potential State legislation that they care about. On the other hand, groups that would logically be for a helmet law, like the medical society or the insurance industry, were quite frankly concerned with other matters that affected them in a more direct manner. They did not have the same motivation to lobby for the helmet law as the motorcycle groups had to lobby against it. So even though there is no doubt in my mind that a motorcycle helmet law is something that would be favored by an overwhelming majority of the citizens of the State of Illinois, the mechanics of passing a law are such that the more vocal opponents have had their way in the General Assembly.

The Federal Government has played a critical role in enacting safety legislation throughout the years. The original helmet law would not have passed but for Federal action. We all know that the drinking age and seat belt legislation was passed in many States as a result of Federal action. And we also have some experience that every time that Congress changes its mind, such as back in the 1970's, death and injury rates go up. When Congress decided to take a more moderate approach on this very important public health problem in 1991, they passed what I viewed as a very good law in section 153. It wasn't a sanction; it was an incentive program that redirects money from construction into the safety programs where it is needed most. It was a good law then and it's an even better law now. Since the passage of section 153, more States have passed helmet and safety belt laws, lives have been saved and dollars spared to the States who would have to pay for the severely head injured people in their hospitals and rehabilitation centers. The only thing that has changed since 1991 when Congress had the wisdom to adopt this lifesaving law is that more people are alive and healthy as a result. I know it should come as no surprise to you that the No. 1 problem in our State and in most States is paying for the cost of Medicaid. These injured motorcyclists are a direct burden on our taxpayers by not wearing a helmet. I think that the reasons for the passage of the motorcycle helmet law is obvious. Helmets work—they save lives and money. That should be reason enough for legislators to vote for such a law. But because of the political system that I've described, some legislators find it difficult to do so. That's why the Federal law is so important. It's not a *reason* for us to vote for helmet laws, but it's a good *excuse* to vote for it. A legislator can say, "You know what motorcy-

clist, I'm with you. I don't think we should have a helmet law, but you know what? The Federal Government is saying we have to. So, I guess I have to vote for it."

The fact of the matter is that the Illinois road contractors never cared about a helmet law until you passed this law in 1991. Since then, they have been lobbying for a motorcycle helmet law, and when the uncertainty as to whether or not this repeal is going to pass or not is over, they will redouble their efforts to make sure that they don't lose any highway dollars. You're adding another powerful lobbyist to the list of those that care about whether or not we should save lives and money in Illinois.

I empathize with you Senators because we are a political world. There are lots of politics involved in any issue like this and I deal with it myself as a State Senator. The most important political reality to talk about today is the following: If this program, this section 153, law is repealed, I will never be able to get a helmet law passed in Illinois. It's as simple as that. So I urge you to not repeal this law.

Thank you very much for the opportunity to speak and I would be more than happy to answer any questions.

STATEMENT OF MARK L. ROSENBERG, M.D., M.P.P., DIRECTOR, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL, CENTERS FOR DISEASE CONTROL AND PREVENTION

INTRODUCTION

Good afternoon, Mr. Chairman and members of the subcommittee. I am Mark Rosenberg, Director of the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention (CDC). I appreciate the invitation to speak to you today and bring a public health perspective to your deliberations on traffic safety measures. I will focus my remarks today on the public health consequences of motor-vehicle injuries—the deaths and serious injuries which occur, and the costs associated with these profound, long-term, and debilitating injuries. I will also tell you how the use of safety belts and motorcycle helmets can prevent these injuries and discuss recent studies on the effectiveness of methods to increase usage.

In this country, we have made significant progress in reducing motor-vehicle fatalities. This progress has resulted from a comprehensive approach to the problem and can largely be attributed to reductions in drinking and driving, increases in safety belt use and motorcycle helmet use, and improvements in roadway and vehicle design.

I am encouraged by what I hear is happening from those on the frontline of injury control—the trauma surgeons and emergency department clinicians. These are the individuals who battle with the tragic consequences of a motor-vehicle-related injury and death every day. In conversations with these physicians, they tell me how the mandatory belt and helmet laws are really making a difference—they are seeing a reduction in motor vehicle-related injuries, and when injuries occur, they are less severe. This evidence is substantiated with data.

CDC'S NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL

To provide you with some background on who we are and what we do, I will briefly tell you about CDC's National Center for Injury Prevention and Control. The goal of our Center is to improve the health of Americans by preventing premature death and disability caused by nonoccupational injuries and reduce the human suffering and medical costs associated with these injuries. Injury is the leading cause of years of potential life lost before age 65. In 1992, injury was the leading cause of death in every 5-year age group for people 1 through 44. Injuries are the leading cause of medical expenditure for children and the second leading cause of medical expenditures overall, second behind cardiovascular disease.

To reach this goal, CDC uses the public health approach by conducting surveillance to monitor trends in deaths, disabilities, and costs associated with injury, and by conducting epidemiologic studies to identify risk factors for injuries and high risk groups. We work cooperatively with state health departments, universities, and community-based programs to implement injury prevention measures and evaluate their impact. In conducting these activities, we collaborate with other Centers at CDC, other Public Health Service Agencies, the National Highway Traffic Safety Administration, the Consumer Product Safety Commission, other Federal departments and agencies, state and local agencies, and private and voluntary organizations.

THE PUBLIC HEALTH IMPACT OF MOTOR-VEHICLE-RELATED INJURIES

Motor-vehicle-related deaths and injuries are a priority public health problem because of the extraordinary toll they take on society. They account for about 41,000 deaths per year and 4.1 million emergency department visits. Motor-vehicle-related injuries, the largest single category of injury cases, cause nearly 32.3 percent of all deaths related to injury. In 1992, 54 percent of the 7,742 motor-vehicle-related deaths of people under 20 years of age had an underlying cause of death indicating head injury. Motorcycle helmets and safety belts can help reduce this toll.

Safety belts are widely recognized as effective in reducing fatalities and nonfatal injuries. The National Highway Traffic Safety Administration (NHTSA) estimates that in 1990, 4,800 deaths and 120,000 injuries were prevented by safety belts. As a result of the passage of safety belt use laws, which now exist in 48 states and the District of Columbia, safety belt use has increased from 11 percent in 1982 to 66 percent in 1993. State safety belt use laws ensure high levels of use. Australia, Quebec, and Britain have had mandatory safety belt use laws since 1972, 1976, and 1983 respectively. In England, prior to passage of the safety belt law, a 7-year intensive public information and education campaign only raised safety belt use to 30 percent. Encouragement alone is not enough. After the law was passed, safety belt use increased to 90 percent. Mandatory safety belt use makes good fiscal sense. Quebec has estimated that each 1 percent increase in belt use results in $1.8 to 3.5 million reduction in medical insurance claims.

In 1992, there were 2,394 deaths from motorcycle crashes, approximately one every 4 hours. Most of these deaths occur among young people between the ages of 18–24, resulting in the loss of many years of productive life. Scientific evidence has shown that, like many other injuries, males are at higher risk than females. For motorcycle crashes, the death rate is 10 times higher for males than for females. Among 15–34 year olds, 1 out of every 10 traffic fatalities involves a motorcycle driver or passenger. If you consider the rate of death per registered vehicle, motorcyclists have four times the fatality rate of car occupants. Per mile traveled, a motorcyclist is roughly 20 times more likely to die in a crash than is an automobile occupant.

Mandatory use laws for motorcycle helmets that apply to riders of all ages are also effective. Motorcycle helmets are estimated to be 29 percent effective in preventing motorcycle fatalities and states with helmet laws that apply to riders of all ages have use rates of 99 percent while those with laws that only apply to minors or have no law show use rates of 34 to 54 percent. NHTSA also estimated that helmets prevented 562 motorcyclists deaths and 303 additional lives would have been saved if all cyclists had worn helmets. Let me focus the remainder of my remarks on the issue of preventing head injury through motorcycle helmet use, because that is an area which requires more concentrated effort.

Head injury is the leading cause of death in motorcycle crashes. To determine what proportion of motorcycle deaths are associated with head injury, CDC reviewed U.S. death certificate data from 1979–1986. Head injury was involved in 53 percent of motorcycle-related deaths. Given this estimate, of the 2,394 motorcycle deaths in 1992, approximately 1,296 were caused by head injury. More than 82 percent of the deaths associated with head injury in motorcycle crashes were among persons 15 to 34 years of age.

Motorcycle crashes also result in very costly non-fatal injuries, head injuries are particularly disabling. A recent study in Wisconsin, supported jointly by NHTSA and CDC, showed that unhelmeted motorcyclists were 2 times more likely to be hospitalized then helmeted riders. Unhelmeted riders' risk of brain injury was 3 times higher then helmeted riders and the risk of skull fracture was 4.5 times higher for the unhelmeted. In 1991, unhelmeted riders with head injuries generated $2.9 million in hospital charges. Brain injuries, which are likely to result in lifelong disability with the costs of medical care born by the public, accounted for 82 percent of hospital charges. This study is an example of how NHTSA (which funded the data linkage project) and CDC (which assisted the State of Wisconsin in analyzing and interpreting the data) work together to improve the science of injury control.

HELMET EFFECTIVENESS

As early as the 1940's researchers documented the benefits of wearing a motorcycle helmet. Evidence from this country and others around the world have shown conclusively that motorcycle helmets are effective in reducing the likelihood and severity of head injuries in motorcycle crashes. Based on data from NHTSA's Fatal Accident Reporting System, on average, helmets are estimated to be 29 percent effective in preventing all fatalities in motorcycle crashes. More importantly, it is estimated that of those motorcycle fatalities due to head injuries, two-thirds could be

prevented by using helmets. From 1984 through 1992, an estimated 5,832 motorcyclists' lives were saved by wearing helmets. If all motorcycle operators and passengers had worn helmets during those years, it is estimated that approximately 5,920 additional lives would have been saved.

A 1991 GAO report concluded that available studies, comparing fatality rates between helmeted and nonhelmeted motorcycle crash victims, were consistent in reporting a clear safety benefit from helmet use. The report states that "helmet use prevents deaths and reduces injury among motorcycle crash victims." Recent studies continue to substantiate these claims. For example, researchers at UCLA conducted a CDC-funded study to evaluate the effect of the 1992 California motorcycle helmet law on crash fatalities and injuries. One year following implementation of the law, motorcycle crash fatalities decreased by 37.5 percent. Motorcycle fatality rates per 100,000 registered motorcyclists were reduced by 26.5 percent. Head injuries decreased significantly among fatally and non-fatally injured motorcyclists.

COSTS ASSOCIATED WITH MOTORCYCLE INJURIES

Helmets provide a benefit to the individual and to society by saving lives and reducing injuries. The failure to wear helmets, in turn, has a significant impact on health care costs and is a growing burden on society. In 1988, CDC-funded researchers at Harborview Medical Center conducted an investigation of motorcyclists hospitalized at a major trauma center and found that the average total direct cost for care per patient was over $25,000. More than 60 percent of these costs were paid by public funds. Almost one quarter of all costs were for rehabilitation and readmission; head injuries present chronic and ongoing problems that can last a lifetime.

How can helmets affect costs? In a recent population-based assessment of injuries to motorcycle crash victims who were hospitalized, CDC-funded researchers compared helmeted and non-helmeted riders. The total cost for all hospitalized unhelmeted riders was 66 percent greater than that of hospitalized helmeted riders ($3.5 million versus $2.0 million), and the average per-patient cost of hospitalization was 35 percent higher for unhelmeted motorcyclists ($17,000 versus $13,000). Other studies have shown that patients who wear helmets are less likely to suffer from a head injury and less likely to need the resulting critical and intensive medical care. They also have shorter stays in the hospital and less frequent need for rehabilitation.

These studies point out that motorcycle injuries are expensive to treat, much of the costs are borne by public dollars, and health care costs are considerably lower for helmeted motorcyclists who sustain an injury.

EFFECTIVENESS OF METHODS TO INCREASE HELMET USE

CDC supports NHTSA's comprehensive approach to licensing, education, and mandatory use laws to increase helmet use and reduce motorcycle injuries. In states which have mandatory laws, helmet use rates are 99 percent. We are unaware of any evidence that demonstrates that testing, licensing, or education alone leads to anywhere near the improvement in helmet use that mandatory laws produce. The most effective programs are comprehensive and include a mandatory helmet use law.

A recent study conducted by our own researchers at CDC found that states with full helmet-use laws reported about half the head injury death rates than did states without such laws. This was true whether researchers calculated rates on the basis of population or motorcycle registrations. Let me show you a graphic of the death rates based on motorcycle registrations (See attachment A). There are three lines: (1) represents states with full laws, every motorcyclist has to wear a helmet; (2) represents states with no laws, helmet use is voluntary; and (3) represents states with partial laws, only people of a certain age are mandated to wear a helmet. Note that over the 8-year period study, those states with full laws always had the lowest death rates. States with partial laws did not fare much better than those states with no laws at all. It is easy to understand why partial laws are hard to enforce—imagine a police officer trying to gauge the age of a motorcyclist speeding by.

Earlier studies also support these findings. In 1991, GAO reported that when universal helmet laws have been in effect, fatality rates have generally been 20 to 40 percent lower than during periods before enactment or after repeal. Recent research from Texas found that the rates of injury crashes declined following the reinstatement of Texas' comprehensive helmet law. Observed helmet use rose from fewer than half (44 percent) of all riders to 98 percent. They also found that unhelmeted motorcyclists were twice as likely to suffer head injuries and four times as likely to suffer serious head injuries as were motorcyclists with helmets. Other state statistics demonstrate the impact of helmet laws. Louisiana strengthened its law from

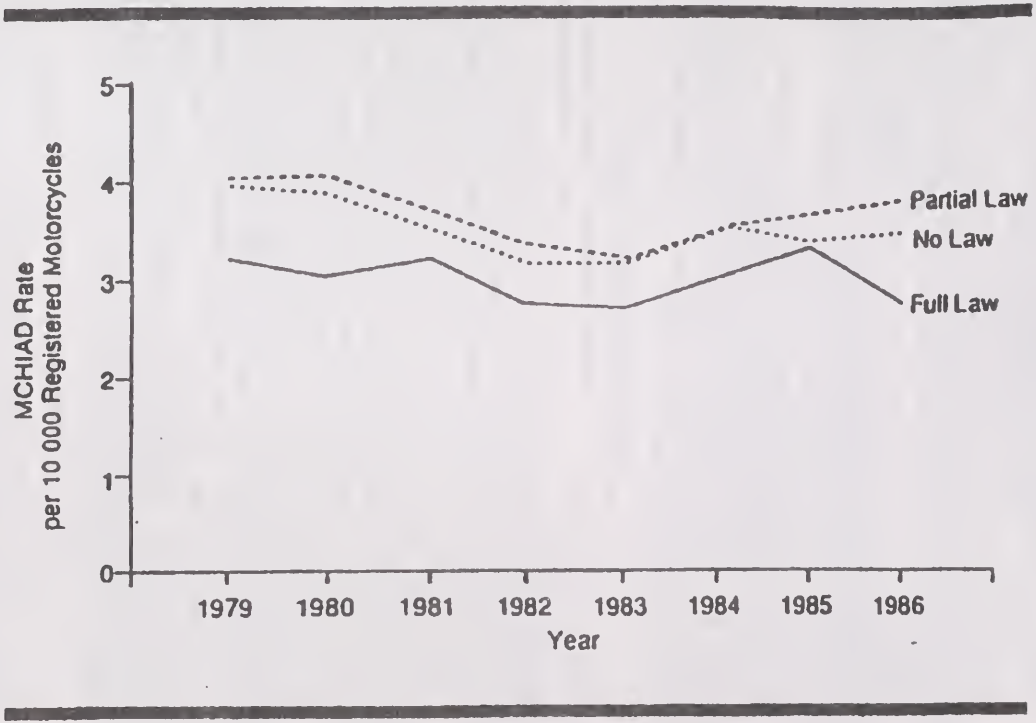
partial to full use in 1981 and there has been a 44 percent decline in its motorcycle death rate. South Carolina and Wyoming weakened their laws from full to partial use and had increases in motorcycle-related head injury death rates of 184 percent and 73 percent respectively.

SUMMARY AND CONCLUSION

In summary, motorcyclists are especially vulnerable. They are at great risk for death and long-term disability from their injuries. They need better protection in the event of a crash. Motorcycle injuries are expensive to treat, and much of the cost burden is borne by the public. Studies also show that health care costs are considerably lower for helmeted motorcyclists. One can conclude, especially given rising health care costs in this country, that we must focus on these preventable injuries to reduce costs, as well as save lives. Helmets are effective in reducing head injuries in motorcycle crashes. Lives and dollars are saved. Studies conducted by CDC researchers and others show that mandatory helmet use laws are effective methods to increase helmet use. CDC supports comprehensive programs to reduce injuries to motorcyclists including mandatory helmet use laws.

Thank you, Mr. Chairman. This concludes my testimony. I would be happy to answer any questions you or other members of the Subcommittee may have.

ATTACHMENT A - Motorcycle-related head injury-associated death (MCHIAD) rates, by helmet law and year in the United States from 1979 to 1986.



STATEMENT OF GARY SAUER ON BEHALF OF THE NATIONAL ASPHALT PAVEMENT ASSOCIATION (NAPA)

Good morning. My name is Gary Sauer. I am an asphalt contractor from Maple Grove, Minnesota and this year's Chairman of the Board of the National Asphalt Pavement Association (NAPA). I appreciate the opportunity to present testimony on behalf of NAPA.

NAPA is the national trade association exclusively representing the Hot Mix Asphalt (HMA) Industry. We have a membership of nearly 800 corporations, most of which are HMA producers and paving contractors. The majority of our members are small businesses, and our member firms produce approximately 70 to 75 percent of the total HMA produced in the United States annually.

We commend you, Mr. Chairman, for holding these hearings and appreciate the opportunity to present our views before the Subcommittee.

The top legislative priorities for NAPA are congressional approval of the National Highway System and amending Section 1038 of ISTEA, "Use of Recycled Paving Material," to remove the mandatory minimum utilization requirements for crumb rubber modified asphalt. While I will concentrate most of my testimony on Section 1038, I do want to briefly mention the NHS.

THE NATIONAL HIGHWAY SYSTEM

There is an abundance of compelling testimony by the Federal Government (USDOT and FHWA), the States and the private sector, documenting the importance of an NHS to the nation's economy.

The NHS, which carries 40 percent of car travel and 75 percent of truck traffic, will be the backbone of the U.S. transportation system into the 21st century. It is over these highways that freight, emergency vehicles, farmers, businessmen, school children, and tourists will travel.

Failure to approve the NHS spells the end of a meaningful Federal-aid highway program. There will be no need to collect highway user revenues at the Federal level, as there will be no real national focus to our highway program. It will become no more than a revenue sharing program resulting in a balkanization of the transportation system. There will be a disincentive to economic activity resulting in an overall degradation of economic conditions and quality of life.

As to funding, ISTEA currently permits NHS funds to be used for transit under certain conditions. Also, 50 percent of NHS funds can be transferred to the Surface Transportation Program (STP) at the State's discretion. Up to 100 percent can be transferred with the approval of the Secretary of Transportation.

We would suggest that Congress re-examine these provisions in light of the importance of the NHS to the country. The STP is a completely flexible program where the States and local governments decide on mode, project priorities, and type of projects. We strongly recommend that the NHS funds be limited to use on the I5HS unless a State can clearly demonstrate that it has no further needs on that system, that all segments are built to minimum AASHTO standards, and that the surface conditions require no improvement.

SECTION 1038—"USE OF RECYCLED PAVING MATERIAL"

Section 1038(d) is unprecedented in mandating the use of a specific product in the highway program with so little knowledge about the product itself or the consequences of its use. Supporters of the unfunded mandates legislation repeatedly cited the crumb rubber mandate as an example of a costly and burdensome Federal mandate imposed on States without any quantifiable benefits.

NAPA joins the National Governors Association, the American Association of State Highway and Transportation Officials, the National Association of Counties and other highway construction associations in support of repeal of Section 1038(d).

Congress has for two consecutive years put a moratorium on penalties for States which fail to meet the mandate. Despite the moratoriums on penalties, 48 States have utilized crumb rubber in asphalt pavement. A couple use it routinely. It is our view that Section 1038 has served its purpose in giving the technology broad exposure and the minimum utilization requirements should now be repealed.

It should be a State determination on how to handle scrap tires. There is no need for the Federal Government to dictate a means of disposal. Most every State has regulations or laws regarding scrap tire disposal including programs to generate scrap tire market incentives. By 1996, the Scrap Tire Management Council estimates that 89–93 percent of all scrap tires will be utilized in market applications such as tire derived fuel, fabricated products and civil engineering applications. Sev-

eral States, including my home State of Minnesota, have virtually eliminated scrap tire stockpiles and have done so without any Federal mandates.

The Minnesota Department of Transportation has informed our congressional delegation of its opposition to the crumb rubber mandate. The reasons are: it substantially increases cost (up to double) resulting in 100 less miles of resurfacing per year; it could adversely impact performance; and there are more cost effective and beneficial uses for shredded tires. An example is a project where the State used over one million tires as lightweight fill.

Mr. Chairman, these concerns with the crumb rubber mandate are not unique to Minnesota. NAPA and the States are not against the crumb rubber technology per se. What we do oppose is a Federal mandate imposed on recipients of Federal-aid funds as well as the industry with limited research or performance data to justify it.

Traditionally, the agency that owns the road is responsible for the mix design and the materials that go into the pavement. Crumb rubber is an asphalt modifier. An agency may specify one of numerous HMA modifiers which are on the market to impart certain characteristics to the finished product. When electing to use any such modifier, the agency and the contractor have a right to be reasonably assured that it will perform as intended and not have any adverse impacts. Such assurance is not yet available for crumb rubber.

Our concerns are with the cost, engineering properties, recyclability, and unknown health and environmental impacts related to the use of crumb rubber asphalt. Let me briefly summarize some of the issues:

Costs and performance

Crumb rubber modified HMA costs more than conventional HMA. While there are claims that the cost of the product has come down, the latest information we have is from the AASHTO survey of September 1993 which indicates that for projects bid and constructed in 1993, the cost of crumb rubber modified Hot Mix Asphalt was some 67 percent more than the cost of conventional HMA.

Substantially increased costs means that the amount of pavement that transportation officials can provide the traveling public will be reduced within a given budget. Ohio Governor Voinovich testified earlier this year before Congress that with the additional cost to comply with Section 1038(d), Ohio could repave nearly 700 miles of rural highways and rehabilitate 137 aging bridges.

There are claims that the product performs better than conventional HMA. While a few States are specifying the use of crumb rubber modified HMA for certain applications, there are no definitive studies which support this assertion under all traffic conditions and climates. In summary, performance of crumb rubber modified HMA has been mixed. There have been both successes and failures. Certainly there is no persuasive evidence that it is a superior product.

Engineering properties

There is limited knowledge in the States and the Industry on pavement structural design, mix design and production, and construction methods of crumb rubber modified HMA. The mandated use of the product without such knowledge will result in premature failures and wasted dollars. This casts the HMA Industry and the entire highway program in a bad light. We can ill afford such setbacks in these times where highway improvements are sorely needed and the competition for the transportation dollar is extremely tough.

FHWA has initiated a major research project to evaluate crumb rubber modifier technology in the design, construction, performance, and recycling of asphalt pavements. This project involves the resources of Oregon State University, the University of Nevada-Reno, the University of California-Berkeley, and the National Center for Asphalt Technology at Auburn University. An Expert Task Group consisting of both users and producers of crumb rubber modified materials will review the project and advise regularly.

Recyclability

The HMA Industry has been a leader in recycling its product since the 1970's, before recycling became fashionable. According to figures published by FHWA, 73 million metric tons out of the 91 million tons of asphalt pavement removed each year are reused in other highway projects.

Whether the addition of rubber to HMA will have an adverse impact on its recyclability for engineering, health, or environmental reasons is unknown. NAPA, several States (including California, a leading proponent of the product), and FHWA have raised questions on this issue. If, for some reason, crumb rubber modified HMA is not recyclable, mandating its extensive use would be disastrous to the Industry, the States, and society in general.

Environmental impacts

We don't know with any certainty if the addition of crumb rubber modifier to HMA will create additional air quality problems. A Virginia DOT report states that the crumb rubber mixes showed that the volatile organic compounds (VOCs) increased 126 percent, visible emissions were 231 percent higher, and polycyclic aromatic hydrocarbons (PAHs) 213 percent higher than conventional mixes. Based on the emission factors from this test, the report states that the implementation of Section 1038 in 1997 will result in 8 additional tons of VOCs being produced just in Virginia.

A May 12, 1994, letter from the Virginia DOT states:

> The data collected by VDOT during 1993 indicated an increase in Volatile Organic Compounds that will be a problem for this State in attempting to meet the Clean Air Act. This is something that the State and EPA will have to work out if we are to proceed with implementation.

An Ohio report based on 1993 tests, documents that the crumb rubber mix demonstrated a 232 percent increase of VOCs and a 300 percent increase of PAHs in comparison with the conventional mix.

The California Air Resources Board indicated in a January 14, 1994, letter to EPA that they have had cases of odor and opacity problems with the use of crumb rubber and have requested EPA's assistance. The same letter further states:

> Communications between my staff and those of other State air quality regulating agencies had indicated that potential for the odor and opacity problems exists nationwide.

Health impacts

There is a similar issue with asphalt fumes. For the past several years, representatives of the HMA Industry have been working with Federal officials on permissible exposure levels for asphalt fumes. We have conducted studies that show worker exposure to fumes from conventional HMA does not pose a significant problem. However, the addition of crumb rubber to the mix introduces the concern that there could be adverse health impacts on the workers because of the composition of the tires and the higher temperatures required to produce the mix.

If there are adverse health effects, the liability falls on the Industry. This can result in higher costs of insurance and workman's compensation, as well as for additional protective equipment for the workforce.

Our Industry has been working with FHWA, the National Institute for Occupational Safety and Health (NIOSH), EPA, the States, and the effected labor organizations to develop and carry out a research program on the health and environmental impacts of crumb rubber modified HMA. This program should provide definitive information on the potential health and environmental impacts of rubber modified HMA.

As support for our position, there is the Transportation Research Board publication: *Uses of Recycled Rubber Tires in Highways, A Synthesis of Highway Practice.* Nearly 500 references, information from State highway departments, and input from a panel of experts were used in developing the synthesis. The report cites the lack of information on recyclability, worker health and safety, and environmental impact. It finds that the cost effectiveness of crumb rubber modified asphalt is questionable. Further, there is a lack of existing tests for desirable binder properties, the lack of field quality control and quality assurance methods, and the need for improved mix design methods.

The Strategic Highway Research Program has recently been completed and $50 million was devoted to improving the performance of Hot Mix Asphalt pavements. Performance-based specifications were developed for the asphalt binder and are under development for the Hot Mix Asphalt mix. Should all this research be circumvented in order to accommodate this special purpose legislation? Absolutely not. Crumb rubber should take its place with other modifiers and compete in the marketplace and not be the subject of any special considerations.

Mr. Chairman, NAPA appreciates the opportunity to present this statement in support of enactment of the NHS and to repeal Section 1038(d).

STATEMENT OF JED BILLINGS, PRESIDENT, FNF CONSTRUCTION, INC.

Thank you, Chairman Warner, for providing FNF Construction with the opportunity to be represented at this hearing today. I am President of FNF Construction, one of the nation's largest suppliers of asphalt-rubber cement. FNF is a member of the Rubber Pavements Association (RPA), the National Asphalt Pavement Associa-

tion (NAPA) and the Association of General Contractors (AGC). FNF has produced over 1,000,000 tons of asphalt-rubber hot mix. FNF has three portable asphalt plants and four, mobile asphalt-rubber plants which are permitted in Arizona, Nevada, and environmentally sensitive areas of California. I appear today to explain how asphalt-rubber is used in the United States and abroad to modify and improve asphalt pavements.

Since 1990, FNF has constructed 350 lane miles of Interstate 40 (encompassing nine State Departments of Transportation) from the deserts of Barstow, California, to Holbrook, Arizona. In this construction we have used over 850,000 tons of various asphalt cement mixes, including conventional hot mix, numerous Strategic Highway Research Program (SHRP) sections, polymerized asphalts and asphalt-rubber mixes. Even though all of the existing pavements and project modifications had various designs, the 10-mile section east of Flagstaff, Arizona, at a 7,500-foot elevation, being the oldest project, was the most deteriorated section of the nine (9) Interstate projects with 30-year-old severely cracked concrete pavement.

This project consisted of crack and seat of the existing concrete pavement, a three inch conventional asphalt-cement (AC) overlay, a two inch asphalt-rubber-AC and a ½ inch asphalt-rubber-ACFC (friction course). Numerous SHRP work, i.e., test sections were also built. Most of these sections failed in the first year of service. The Arizona Department of Transportation (ADoT) has tested this project on an annual basis since 1990 and the reports show excellent service with no reflective cracking, virtually no rutting or bleeding and excellent ridability.

PERFORMANCE

Crumb rubber was first tested as a modifier for asphalt pavements in the mid-1960's. Its use then and now has been based on the performance characteristics of crumb rubber as a modifier, not as a recycled material produced from scrap tires. The Federal Highway Administration (FHWA) has classified this product as a "modifier," and not as an "additive" because crumb rubber, properly used, enhances various properties of asphalt.

Crumb rubber modifier is being used most widely as a crack and joint sealant, (it adds elastic properties to the sealants), as stress absorbing membrane inner-layers (SAMI's), and in hot mix asphalt (HMA) applications. Currently, over forty States use crumb rubber modifier in crack and joint sealant applications on a routine basis. These products, properly engineered and properly placed, are a cost-effective method of improving pavement performance and durability.

While there are numerous, more recently developed processes incorporating crumb rubber from scrap tires in asphalt pavement, the basic Asphalt-Rubber formula, with some variation, has been the most widely accepted within the engineering community as a cost-effective process for modifying and improving asphalt pavements.

States like California, Arizona and Florida use asphalt-rubber as standard procedure in a variety of applications. Extensive experience has shown that asphalt-rubber makes longer lasting, lower maintenance roads. The use of crumb rubber in asphalt pavements retards reflective cracking, reduces the propensity for rutting, reduces surface noise, retards the aging process, and increases pavement flexibility.

California, based on its extensive experience with crumb rubber modifier, used approximately one million tons of Asphalt-Rubber hot mix in 1994. This represents approximately 10 percent of its asphalt paving applications. Asphalt-Rubber was used in California in cold and hot climate conditions.

In California, Asphalt-Rubber is used at a reduced pavement lift thickness (by as much as one-half) with the equivalent structural strength to greater thicknesses of conventional hot mix asphalt. Attached to my testimony is a copy of FHWA-approved design guidelines issued by CALTRANS which allow for reduced pavement lift thicknesses, with the same or better performance results, when Asphalt-Rubber is used in gap graded pavement rehabilitation applications.

In 1993 CALTRANS commissioned the University of California at Berkeley (UCB) and the Council for Scientific and Industrial Research (CSIR) in South Africa to conduct a pilot study to compare the cracking behavior of crumb rubber modified hot mix asphalt (CRM HMA) with that of conventional mixes using the South African Heavy Vehicle Simulator (HVS). A copy of this report is attached to my testimony. Subsequent to this initial study, CALTRANS conducted a second study, using the South African HVS, designed in part, to verify the reduced pavement lift-thickness guidelines for CRM HMA in gap graded applications. The results of this study, which were released late last year, support CALTRANS' initial conclusions that at reduced pavement lift thicknesses (up to 50W), ARHM–GG will perform with equivalent structural strength to greater thicknesses of conventional hot mix asphalt.

Florida Governor Lawton Chiles instituted a program in 1994 to use a pre-reacted crumb rubber modifier process in 100k of the State's surface treatments. The Florida Department of Transportation, like CALTRANS, is a leader in pursuing the use of innovative materials to improve pavement performance and durability. In Arizona, where Asphalt-Rubber was developed, the State is using the material in numerous applications in all climactic conditions. Based on Arizona's experience, Asphalt-Rubber has the capacity to improve pavement performance in extreme hot and cold temperature conditions.

In 1989, the U.S. Army Corps of Engineers teamed with industry representatives to conduct research on construction productivity with Asphalt-Rubber. This 2-year study concludes that Asphalt-Rubber ages more slowly and is more resilient than conventional asphalt alternatives. Dr. Robert Oswald, Army Corp Director of Research and Development, had the following to say about the performance of crumb rubber as an asphalt pavement modifier. "We have demonstrated that we can increase the durability of asphalt pavements by including crumb rubber from tires. We can improve the safety of that surface because it also gives you an increased coefficient of friction."

COST

It is essential that the enhanced performance characteristics of CRM technologies are recognized when comparing the cost effectiveness of these materials with conventional asphalt. Mr. Gene Morris, P.E., author of a paper issued and peer-reviewed by the American Society for Testing Materials titled *True Cost Effectiveness of Asphalt-Rubber Paving Systems*, concluded that, "If systems are compared that truly provide solutions to the problems, then the use of Asphalt-Rubber can provide a first cost effectiveness in a majority of the cases. Asphalt-Rubber will provide life cycle cost effectiveness virtually 100 percent of the time."

Cost is perhaps the least understood and most controversial aspect of Asphalt-Rubber. A simple comparison of Asphalt-Rubber and conventional asphalt paving materials costs will show that asphalt-rubber material costs are higher. While this is true, these types of comparisons are fatally flawed because they do not calculate savings resulting from alternative designs allowed using asphalt-rubber and they do not calculate life-cycle cost savings.

A one inch mill and overlay with an asphalt-rubber gap-graded mix is less expensive and will last longer than conventional asphalt-cement (AC) overlays, which is why most cities in Maricopa County, Arizona, are using this design for their pavement preservation projects. Just last month, the city of Phoenix's 70,000-ton residential street overlay was bid with a paving option of either 8 percent polymerized asphalt or 9 percent asphalt-rubber for the gap-graded overlay mix. All of the bidders chose the asphalt-rubber binder alternate because it was 10 percent less expensive even though it required 1 percent more binder. In 1993, Imperial County, California had four bid options to use conventional mixes versus an asphalt-rubber mix for their rubber mix for their annual county highway overlay project. Asphalt-rubber was the least expensive alternate and the savings resulting from the use of asphalt-rubber allowed for the entire project to be funded.

Additionally, these flawed cost calculations which have been provided to Congress do not reflect market changes resulting from increased competition, economies of scale and the expiration in late 1992 of the primary asphalt-rubber patents. It is distressing that time after time, year after year, these erroneous and inaccurate cost estimates find their way into the public policy debate over the use of CRM technologies. It is my sincere hope, Mr. Chairman, that we can move beyond these inaccurate cost estimates and focus on the proven cost effectiveness associated with the proper use of these materials.

EMISSIONS/WORKER SAFETY

Opponents to the Federal minimum use requirement for crumb rubber modifier contained in the 1991 Intermodal Surface Transportation and Efficiency Act (ISTEA) have claimed that there *may* exist emissions and/or recyclability problems with this material. Mr. Chairman, these same concerns have been raised publicly for nearly 10 years, while evidence indicating that they are unfounded has continued to mount. FNF Construction has constructed more than 50 asphalt-rubber projects in different geographic and environmental locations and have experienced no emission or worker safety violations.

These unproven claims must be viewed in the context of standards being applied to other asphalt modifiers and in the context of the minimum use requirement. There has been no research, to my knowledge conducted on the safety or recyclability of polymer-modified asphalt pavements, yet these newer materials are being

widely accepted and used by State Departments of Transportation and within industry.

There have been ten (10) studies conducted which evaluate emissions and worker health safety issues associated with the use of crumb rubber modifier in asphalt pavements (since the passage of the ISTEA legislation in 1991). A list of these studies is attached to my testimony. The Federal Highway Administration, in a cooperative agreement with the National Institute for Occupational Safety and Health (NIOSH), budgeted $500,000 during the 1994 paving season to conduct additional studies on worker health safety and emissions associated with the use of CRM technologies. Three testing sites were completed last year. The preliminary reports from these studies indicate no increased volume of emissions due to the addition of crumb rubber modifier, and no threat to human health or the environment. The FHWA/NIOSH testing is only one component of a larger $2 million research commitment funded by FHWA for continued research on crumb rubber modifiers.

The number of successful recycled CRM projects in the United States also continues to grow. There is no evidence to date to suggest that asphalt pavements containing recycled tire rubber cannot be fully recycled. A list of successful recycled CRM projects, including an Idaho project that was recently conducted, is attached to my testimony. Once again, there is *no evidence* to support the allegations of worker health safety and recyclability concerns made by the opponents of greater use of these technologies. In fact, there is substantial evidence to support the contrary.

In conclusion, I would add that improved performance as a result of using CRM technologies has only been accomplished through a commitment to innovation by leaders in certain State Departments of Transportation and in the asphalt pavement contracting community. As with any emerging technology, there exists a learning curve for those dedicated to perfecting a superior technology.

The members of the Rubber Pavements Association support the continuation of Federal, state, and industry sponsored research projects on CRM technologies. The vast amount of research conducted on the use of crumb rubber modifier, especially when compared to other pavement modifiers, has addressed the concerns raised by opponents to the Federal use requirement, related to the performance, recyclability and worker health safety issues associated with these products.

An aggressive technology transfer program is critical to States' understanding of how to properly use CRM technologies. I was pleased to learn recently that the "Implementation" component of the FHWA Pooled Fund study has been accelerated. It is my understanding that FHWA anticipates having a "draft product" documenting states experience with the various CRM technologies/applications by spring of this year.

The experiences of several states (with little or no prior exposure to CRM technologies) that have experimented with CRM products over the last several years, would appear to demonstrate a "not invented here" attitude. Substantial laboratory research and field data already exists on the performance of CRM technologies that state agencies can consult as they begin to develop their own CRM programs. The members of RPA recognize that responsible engineering often entails verifying original research. By drawing on the past experiences of State Departments of Transportation with CRM experience, however, a State with little or no experience stands to gain a better understanding of what CRM products and applications have proven to be successful. There is no value in needlessly repeating the errors made in the early development of these technologies. Continued Federal funding of efforts to provide state agencies with accurate, state of the practice information on CRM technologies, is critical to industry's efforts to insure quality assurance and quality control in the field.

We have learned a great deal with regard to the performance characteristics of CRM binders over the last two decades. We do not need to continue to retrace the footsteps of officials from the state departments of transportation who have been using CRM products for nearly 20 years. The state of Florida is a fine example of a state that had a specific construction need, researched what other states had experimented with to date, and developed their own program to fit their needs.

Lastly, Section 1038 of ISTEA has been wrongly characterized in the media as an "Unfunded Mandate". The states of California, Arizona, Florida and Kansas are using substantial volumes of crumb rubber modified asphalt, specifically a process called asphalt-rubber, in cost-effective applications. These states are using these materials primarily because they are cost-effective, not because of the existence of a Federal requirement or because they contain recycled materials.

While the members of the Rubber Pavements Association recognize that roads in the states listed above are paved differently than roads in various other states, and that different paving materials are used in different States, extensive laboratory and field testing of Asphalt-Rubber shows that properly placed and properly applied,

asphalt-rubber Hot Mix Gap Graded can provide up-front cost savings in a wide range of pavement rehabilitation applications.

Some State Departments of Transportation have not experienced initial or life-cycle cost savings associated with the use of crumb rubber modifiers. The use of crumb rubber, like the use of other asphalt modifiers, is more complex than the application of conventional hot mix asphalt. There exists a learning curve for State Departments of Transportation and asphalt pavement contractors to understand the most effective specifications and mix designs for Asphalt-Rubber. To say Section 1038 of ISTEA is an unfunded mandate is to discount the many successful state programs that are using CRM products in a cost effective manner.

Section 1038 of ISTEA, even though it is no longer a practical statute, in its current form (1991 draft), was and is a well intentioned and ambitious effort to require States, using Federal Highway Trust funds, to use greater volumes of crumb rubber paving materials which have proven to be cost-effective. The members of RPA believe that every State Department of Transportation can experience cost savings through the use of this proven material if they make a serious and honest effort to use Asphalt-Rubber. The congressional uncertainty with regard to the implementation of Section 1038 of ISTEA has served to confuse and frustrate State Departments of Transportation officials and industry representatives. The legislative language included last year in the National Highway System Reauthorization bill (Section 108 of H.R. 4355), appears to be a balanced compromise between the environmental community and the conventional paving industry. It is my sincere hope this year that Congress will adopt a legislative solution that will promote greater use of this proven material.

Thank you for your attention.

STATEMENT OF EDWARD J. MATHENY, PRESIDENT, RHODE ISLAND MOTORCYCLE ASSOCIATION

Rhode Island stands with 24 other states in opposing the section 153 Federal Mandates. Since repealing a mandatory helmet use law in 1976, the Rhode Island General Assembly has debated this issue at least once during each year and in many years, multiple helmet bills have been heard. During each session, proponents from both sides of this helmet law debate brought the latest facts before committees comprised of elected representatives and senators in accordance with our Constitution. In each case, unanimous agreement of members on each committee, resulted in the defeat of the universal helmet proposals. These arguments were heard in committees in both the House of Representatives and the Senate.

Rhode Island was a pioneer in Motorcycle Rider Education, establishing a rider education program in 1979. The program set the standard for other states to follow and is completely funded by the motorcyclists of Rhode Island. No tax dollars from the general population go into this program. A surcharge of $3.00 per motorcycle registration per year is applied directly to the education program and each student must pay a $20.00 enrollment fee. The motorcycle training is mandatory for all persons who want to legally operate a motorcycle in Rhode Island. This education program has received awards at the national level for its effectiveness. There has been an average of 2,000 people trained each year during the 16 years of operation which has resulted in well over 32,000 trained motorcycle operators in Rhode Island, Attachment (1) provides a yearly student summary.

This education program is believed to be the reason for the continued decrease in both motorcycle accidents and deaths in Rhode Island despite an overall increase in the number of both motorcycle and vehide registrations. The cooperation between the Rhode Island Motorcycle Association, a motorcycle activists association, and the General Assembly led to the establishment of this excellent educational opportunity. The Community College of Rhode Island manages the program and also provides follow up education to experienced riders in the form of an Experienced Riders Course. Dean Americo Ottaviano administers the overall program and is justifiably proud of the results.

Dean Ottaviano commented that Rhode Island has continued to be recognized as one of the 5 or 6 safest states with regard to motorcycle safety." I would like to point out that this has been done without the intrusive measure of a universal helmet law. Dean Ottaviano believes that through a cooperative effort of citizen action and education, the behavior of Rhode Island Motorcyclists has been modified. Attachment (2) provides visible proof that the death rate in Rhode Island has continued to decline since motorcycle education has been implemented. Any death is a tragic occurrence, however, it is significant to note that the 1994 death rate of 9 with over 21,000 registered motorcycles is lower than the 1975 death rate of 10 with only

11,000 registered motorcycles. In 1975 Rhode Island had a universal helmet law and boasted over 95 percent compliance.

The theory that motorcyclists are a public burden to the general population of Rhode Island appears to be a hollow claim and cannot be supported by our current research. Insurance is mandatory in Rhode Island and the average income of motorcyclists continues to rise as the cost of motorcycles and the peripheral equipment needed to involve one in the sport also continues to rise. The Motorcycle Industry Council completed a survey which identified the typical motorcyclist as a 35 year old, married, college-educated individual with a yearly income in the $33,000 per year bracket. These individuals, properly trained in the mechanics of motorcycle operation, are highly capable of evaluating personal safety issues for themselves. On the national level, a recent study conducted by Dr. Jane Stutts, North Carolina Highway Safety Research Center reports that the average motorcyclist is no more likely to cost society any more money than other road users.

The claim that head trauma victims of motorcycle accidents in Rhode Island cause an inordinate burden on the funding of the State General Hospital has been examined and the results are published in Attachment (3). In conversations this past week with experts from the Medicaid Department, no one was able to pinpoint any dollar figure incurred by the State of Rhode Island due to motorcycle trauma. In fact, they could not provide a breakdown of any figure incurred by motorcyclists because the system does not track accidents in that manner. According to the Deputy Director of Medicaid in Rhode Island, his agency is a bill payer system and does not break down or keep a specific record of the individual reasons for head trauma. He recommended that we contact the State Hospital for specifics regarding individual accidents. See Attachment (3).

It is apparent that the helmet debate this year has been reduced to a conversation between the duly elected legislators of Rhode Island and their constituents to one of lose, lose. Legislators are being forced to state that due to the Federal 153 Sanctions their hands are being tied and a helmet law may follow or that Rhode Island may have dollars shifted to a safety fund thereby possibly losing jobs in road construction. Overwhelming opinion is that Rhode Island neither wants nor needs a universal helmet law, yet a helmet law may very well become a reality due to an unprovable Federal argument. This is preposterous and is against every tenet of our Constitution. The mandatory helmet debate has not been able to stand on its own merit for over 20 years, so the playing field was changed with the passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) and the deck stacked through the addition of Section 153 Federal Mandates against the honest citizen who does not need to be protected from himself. Actually, due to the cooperative nature of motorcyclists and educators, we should be commending and awarding this section of our community for trying so very hard to improve their safety record, yet through these draconian, anti-10th amendment maneuvers we discourage their efforts and continue the age-old business of intrusive government policies.

The Rhode Island General Assembly has continually acted in a proactive manner by doing more than just voting against universal helmet laws. On a regular basis, the General Assembly as a body, has unanimously acted upon and passed Joint Resolutions asking that the Rhode Island, congressional Delegation desist from supporting Federal Mandates that remove the rights of the state which are guaranteed under the 10th amendment. A copy of the Joint Resolution for this year which has unanimously passed the House of Representatives and is being favorably received in the Senate is provided as Attachment (4) for your convenience. Rhode Island has passed similar resolutions and forwarded them to Washington during past years.

In summation, if the mandatory, universal helmet law is considered to be the "Silver Bullet", why is the death and accident rate lower in our state of Rhode Island when compared to some of our New England neighbors who have universal helmet laws and also have higher rates of accidents and deaths? Rhode Island has a helmet law which was arrived at through a compromise between the citizens and Governor Bruce Sundlun. Our law calls for those under the age of 21 to wear a helmet. Also, this law requires first year riders, who are in need of training, regardless of age to wear a helmet. The less intrusive way of attaining safety through education rather than coercion has been proven here in our great state which prides itself on personal choices.

For these and many other reasons which only echo my claim that Section 153 Federal Mandates are intrusive and unproductive, I ask this committee to please give us relief and remove the yoke of another unpopular, unwanted and unproven Federal mandate.

I extend my personal appreciation, as well as the appreciation of the thousands of Rhode Island citizens who have supported my trip to Washington, to the Committee for allowing my remarks to be part of the official record. As a 23 year veteran

of the United States Navy, retiring with the rank of Master Chief Petty Officer, Surface Warfare Qualified and holder of over 20 personal decorations, I highly believe in and support training and education which has been proven time and again to save lives. Thank you.

NUMBER OF CYCLISTS TRAINED EACH YEAR

1979 - 1994

1979 - 3,850
1980 - 4,764
1981 - 4,222
1982 - 3,787
1983 - 2,711
1984 - 2,686
1985 - 2,718
1986 - 2,491
1987 - 2,530
1988 - 2,430
1989 - 1,814
1990 - 1,925
1991 - 2,144
1992 - 2,027
1993 - 2,119
1994 - 2,286

Attachment (1)

Report on Head Injury Patients at the
Rhode Island State General Hospital,
Cranston, Rhode Island, March 1995.

In an interview with Dr. Sharon Zupka, M.D., in charge of the head injury unit in the Regan Building at the General Hospital, the following information was obtained:

1. How many head injury patients are currently in the unit?

20 total.

2. What is the breakdown of those twenty?

11 are motor vehicle accidents - of that eleven - two (2) are motorcycle accident victims.

3. Has there been a rise in motorcycle head injury patients admitted to this unit?

No, there were no motorcycle head injury patients admitted to this unit in the past 12 months.

4. Can it be documented whether the victims were wearing helmets at the time of the accident?

According to police reports and eye-witnesses, neither victim was wearing a helmet.

5. What were the ages of the victims at the time of the accidents?

One was 23 years old, the other was 24 years old.

6. Was alcohol involved in either accident?

Yes, both accidents.

7. Can it be determined if the victims were licensed to drive motorcycles?

No. it cannot be documented.

8. What injuries caused these motorcycle accident victims to end up at the General Hospital?

All patients were first treated at local hospitals for trauma, however, medical complications arose that were not directly attributed to the head trauma. Once stabilized, and no longer in need of an acute level of care, all patients were transferred to the state facility for extended care. Dr. Zupka explained that most complications arose in the form of collapsed

Attachment (2)

lungs or failed kidneys as examples. The care needed by these patients varied from one to the other. Each case had its own complications but all share a common classification. They are termed in a chronic persistent vegetative state. All having no motor skills and yet not being brain dead or in a coma.

9. How long have the two motorcycle head injury patients been at the General Hospital?

One since 1982, the other since 1990.

In closing, because of individual circumstances surrounding each case, coupled with medical histories, Dr. Zupka stated that in her opinion, even if these people had been wearing helmets, they would still be in the General Hospital.

Interview conducted on March 18, 1995 with the permission of the administration of the General Hospital, by Ruth M. Leonard of the Rhode Island Motorcycle Association.

Attachment (2)

ES150

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY 95-H 5325

JANUARY SESSION, A.D. 1995

JOINT RESOLUTION

MEMORIALIZING CONGRESS TO PROTECT STATES' CONSTITUTIONAL AUTHORITY TO REGULATE TRAFFIC AND MOTOR VEHICLE SAFETY WITHIN THEIR RESPECTIVE BOUNDARIES

95-H 5325

Introduced by: Reps. Ginaitt and Palangio

Date Introduced: January 19, 1995

Referred To: Committee on Judiciary

WHEREAS, The tenth amendment to the U.S. Constitution, part of the original bill of rights, reads as follows, "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people"; and

WHEREAS, The limits on Congress' authority to regulate state activities prescribed by the tenth amendment have gradually been eroded and federal mandates to the states in these protected areas have become almost commonplace; and

WHEREAS, The regulation of traffic and motor vehicle safety laws are constitutionally the province of state, not congressional authority; and

WHEREAS, Recent federal mandates impose a decision upon states which may not agree with current policy requiring the mandatory use of helmets by motorcyclists and the use of seat belts by drivers and front seat passengers in automobiles; and

WHEREAS, While the stated goals of such federal mandates are to

Attachment (3)

95-H 5325

reduce highway fatalities and injuries despite a national reduction of injuries without mandatory helmet usage; it is the opinion of this general assembly that such legislation by congress mandating the use of motorcycle helmets and safety belts is a blatant transgression upon the states' regulatory authority under the tenth amendment; now, therefore be it

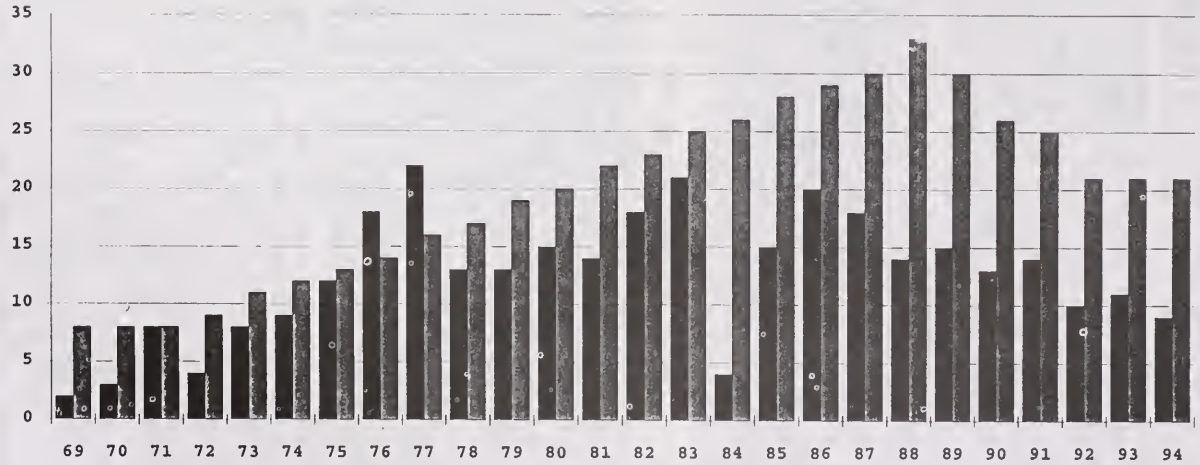
RESOLVED, That this general assembly of the State of Rhode Island and Providence Plantations hereby respectfully requests the United States Congress to refrain from imposing upon the states' constitutional authority to regulate traffic and motor vehicle safety within their boundaries, and specifically, to refrain from mandating the passage of state laws requiring the use of motorcycle helmets and safety belts for automobiles; and be it further

RESOLVED, That the Secretary of State be and is hereby authorized and directed to transmit duly certified copies of this resolution to the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate and to each member of the Rhode Island Congressional delegation, and to the Rhode Island Motorcycle Association.

ES150

Attachment (3)

Rhode Island Motorcycle Safety Since 1969


35
30
25
20
15
10
5
0
69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94
1976: Helmet law repealed. 1980: Rider training program began.
Deaths
Thousands of Motorcycle Riders

Attachment (4)

STATEMENT OF JOHN H. SIEGEL, M.D., DIRECTOR, NEW JERSEY TRAUMA CENTER

Distinguished Senators, I am the Director of the New Jersey Trauma Center at University Hospital in Newark, which is the largest Level I trauma center in New Jersey. We admit nearly 2000 trauma victims annually from all of Northern New Jersey. Half of these result from motor vehicle and motor cycle crashes, or MVA-pedestrian accidents, many of the utmost severity. Prior to my coming to New Jersey in 1991, I served for 10 years as Clinical Director and Deputy Director of the Maryland Institute for Emergency Medical Services Systems (MIEMSS)-Shock Trauma in Baltimore, Maryland, so that over the past 14 years I have been directly responsible for overseeing the care of more than 36,000 trauma patients. I have personally operated upon and cared for many thousand of these badly injured people during their intensive care course and followed their post trauma rehabilitation. I have seen too many human tragedies and too many useful lives wasted unnecessarily as a result of this disease of trauma. These painful experiences have given me a personal, as well as a professional stake in reducing the carnage and the cost of motor vehicle and violent trauma in America.

I wish to provide you testimony regarding three issues under discussion in pending legislation: (1) the potential impact of repealing the present 21 year age limit for alcohol consumption, (2) the potential impact of repeal of mandatory safety belt legislation for motor vehicle drivers, and (3) the potential impact of motorcycle helmet repeal. I will try briefly to address each of these questions. However, it is important to emphasize that these are interacting issues and that one sees that drinking while driving is linked to the failure to utilize the available safety belt restraints in motor vehicle crashes (MVC's), or the refusal to use a motor cycle helmet. All of these factors have a net impact on the incidence of injuries and fatalities, and are major influences on the cost of hospital related medical care for the more seriously injured motor vehicle or motor cycle crash patients.

THE EFFECT OF ALCOHOL IN UNDERAGE MVC DRIVERS

The first and most important point is that of the 11,253,000 motor vehicle crashes which have been estimated by the National Highway Traffic Safety Administrations (NASS) studies to have occurred in 1990, 29.9 percent of these involved drivers of 25 years or younger and 17.5 percent involved individuals under 20 years of age. Of particular importance in the 1990 study is that while only 4 percent of the drivers involved in crashes of all severities were reported by the police as using alcohol, 16.2 percent of the alcohol related crashes occurred in drivers under the age of 21 years. Of particular interest in this regard is that, as the studies of Waller, Hansen, and Stewart, et. al. have shown, the proportion of patients with more severe injuries was increased in those MVC's in which alcohol was involved. Moreover, the studies of alcohol use amongst patients injured in MVC's admitted to a Level 1 Trauma Center done by Dischinger and Cowley at the Maryland Institute for Emergency Medical Services Systems showed that 29 percent of those individuals between 16 and 21 tested positive for blood alcohol and 42 percent of those with alcohol had a blood alcohol level greater than .10 mg percent, a level which is considered to be impaired in all State jurisdictions.

Of particular concern in this regard, as related to my later comments about the use of seat belts, is that in contrast to MVC drivers who were not drinking where 61 percent were belted, only 17 percent of the drivers with positive blood alcohol were using the available seat belts. This is of particular significance in view of the observations in our study on the causes and costs of injuries in patients requiring extrication from motor vehicle crashes (Siegel, Mason-Gonzalez, Dischinger, et. al.) In this group of severely injured patients with high Injury Severity Scores, we were able to identify a group who were ejected from the motor vehicle as a result of the accident and who survived to reach the hospital, (since the incidence of instant death is much higher in those ejected from the motor vehicle). In the patients who were ejected none of whom were wearing the available seat belt, there was a significantly higher incidence of present and past alcohol use, as well as a significantly higher increase of past DWI convictions compared to non-ejected MVC patients. This group of primarily young patients had a long history of substance abuse and psychosocial aggressive tendencies with the most characteristic feature being that 95 percent of them had had a previous high school suspension, generally 8–10 years prior to the MVC which brought them into the hospital. Moreover, those who had had difficulty with alcohol use which was largely responsible for their being culpable in the MVC, had been involved in excessive drinking behavior for many years prior to the MVC. Indeed it was alcohol use which had brought them into difficulty with the law as related to previous motor vehicle activity, so that if effective disciplinary action and an effective alcohol avoidance program had been applied when they were

teenagers, it might have reduced their chance of being involved in the subsequent severe crash. Also, in these patients the alcohol use was associated with a high incidence of other drug use, most commonly marijuana which is also known to impair judgment. A particularly disturbing trend in this regard is the increased incidence of drinking and driving recently found in young females by Popkin and by Waller, et. al.

Perhaps the most important effect of raising the drinking age have been found in the pre- and post-implementation studies of those States in which DWI laws were revised to raise the drinking age from 18 to 21 years. In particular, note the studies carried out in North Carolina which examined the change which occurred before and after 1983, when the age for alcohol purchase was raised to 21. The results of these studies, which compared the DWI arrests per 100 licensed drivers with regard to age and sex (Popkin) showed that between 1976–1985, the two comparison years on either side of the 1983 increase in drinking age, there was a reduction in DWI arrests of those whose age was less than 18 which was 71 percent in males and 40 percent in females. For the 18–20-year-old age range the change in drinking age produced a DWI reduction of 62 percent in males and 14 percent in females. This reduction in DWI arrests was also mirrored by a reduction of alcohol related crashes. With an increase in the drinking age limit the under 18 group showed a reduction of 44 percent of motor vehicle crashes in males and 10 percent in females and the 18–20 age range showed a 27 percent reduction in male crash rates.

The increase in drinking seen in young females which is rising toward the male rate, combined with the relatively high instance of alcohol abuse and recreational drug use in older male teenagers and young male adults is alarming. These data strongly suggest that should the drinking age limitation be lowered from 21 to 18 as proposed it would result in a substantial increase in MVC's involving young people, related to the judgment and reaction time impairments produced by these drugs and by alcohol.

THE EFFECT OF MANDATORY SEAT BELT LAWS

The second issue is related to the proposal to abolish legislation related to mandatory seat belt use. The studies showing the effectiveness of 3-point seat belt restraints in reducing MVC injury are extensive and preclude an exhaustive review. However, it is of considerable value to focus on some of the more recent data examining this issue, especially as it interacts with the proposed speed limit increases and the proposed lowering of the legal age for alcohol consumption. As noted earlier, all of the studies that have been carried out looking at MVC groups have demonstrated that the most serious event that can happen to a victim of a motor vehicle crash is to be ejected from the vehicle, an event that is largely prevented by the 3-point seat belt. As shown in the National Highway Traffic Safety Administration General Estimates System Review of 1990, of 3,173,000 accidents of severity sufficient to lead to a significant injury or fatality, 24,000 sustained ejection from the motor vehicle. This is significant in that in minor to moderate accidents only 8,000 of 2.7 million patients were ejected, but in the severe and fatal accidents 14,000 of 446,000 patients were ejected. The important point is that the rate of ejection for MVC occupants severely injured or killed was 10 times that for occupants who sustained minor or moderate injuries. This risk is extremely great in crashes in which there is a rollover of the vehicle, where the risk is eight-fold for the driver and sevenfold for the right front seat passenger, as found by Esterlitz.

Our studies of ejected patients who survived to reach the hospital (Siegel, Mason-Gonzalez, Dischinger, et. al.) showed that these surviving patients had a high incidence of brain injuries and a significantly greater increase of spine injuries, many of which were associated with spinal cord trauma which produced paralysis, as well as a higher percentage of injuries to the chest and lung. Even in patients who remain in the vehicle, seat belt restraints play a important role in the reduction of fatalities and most importantly, in a fall in the incidence and severity of the resulting injuries. In the study by Reath, et. al. which examined 613 consecutive patients admitted to a University Hospital center, they noted that the mean injury severity was higher for unrestrained victims and that within each body region the restrained patients had fewer major injuries and also had a significantly reduced cost of trauma hospitalization.

A more recent study by Cooper, et. al. from California which examined 8,473 patients injured in MVC's showed that the odds ratio (in other words the increased risk of having injuries) was substantially higher in unbelted drivers and unbelted front seat passengers, especially for the higher grades of injury. (Injury grades are usually classified by the AIS scoring system from 1–6 where 6 is an absolutely fatal injury and AIS 4 and 5 are the more severe potentially survivable injuries). In their

study unbelted drivers had an increased odds ratio of more than three-fold for head (brain) injuries in patients with AIS 4 and 5, a six-fold increase in chest injuries in AIS 5 and three-fold increase in abdominal injuries in AIS 4 and 5 injuries, compared to those with full restraint system use. Brain injuries were also more than three-fold increased in unrestrained front seat passengers who sustained an AIS 5 injury and these differences were all statistically significant from the injuries in belted passengers.

Our studies of a smaller group of severely injured patients admitted to a Level 1 Trauma Center (Siegel, Mason-Gonzalez, Dischinger, et. al.) showed that even in this class of patients seat belt restraints were important in the reduction of brain injuries in patients in frontal crashes and also reduced the incidence of face lacerations and facial bone fractures in frontal crashes. In lateral crashes or in severe frontal crashes the intrusion of the passenger compartment through the force impact exerted directly on the body tended to produce injuries independent of belt status, especially to the pelvis and lower extremities.

The effect of mandatory safety belt laws have been extensively examined by a number of authors with regard to the totality of hospital crash admissions. Rutherford, et. al., Baranacik, et. al., and Evans, et. al. have shown that properly used automobile safety belts reduced the risk of death or serious injuries by at least 40 percent in MVC's. The study of Wagenaar and Margolias, which evaluated the effect on hospital admissions in the State of Michigan with regard to the introduction of a compulsory safety belt use law, showed a significant 19.3 percent decline in the adjusted crash rate of injuries requiring hospitalization. The Michigan safety belt law implementation also resulted in a 20.4 percent reduction in costly extremity injuries. There was also a decrease in the length of hospital stay of 43 percent in hospitalizations of a week or more. Other studies by Wolf examining the Michigan results showed that there was a substantial decline in long length of stay crash related hospitalizations that began almost exactly at the time that the safety belt law took effect.

AIR BAGS AND SEAT BELTS

When air bag supplemental restraint systems are added to seat belts the reduction in injuries in severe motor vehicle crashes (MVC) is striking (Figure 1). Our most recent study of 113 frontal MVC patients revealed that patients with air bag protection had less shock (13 percent vs. 36 percent) and a markedly reduced severity of brain injury (69 percent with low severity injuries GCS $\geq$ 14 with air bags versus only 28 percent with low severity injuries without air bag protection). Also facial fractures, lung, spleen and lower extremity injuries were reduced. When seat belts were added to air bags the effect was even more pronounced (Figure 2) with 71 percent of belted airbag patient's brain injuries being of low severity versus only 25 percent low severity brain injuries in non belted, non air bag patients. Also the combination of air bag and seat belts brought facial fractures, lung and abdominal organ injuries to their lowest levels and reduced but did not abolish lower extremity injuries. Unfortunately, neither seat belts or air bags had much effect in preventing pelvic fractures and lower leg or ankle fractures, since they appear most related to passenger compartment intrusions below the region protected by the air bag system or the belts.

MOTOR VEHICLE SPEED AT TIME OF CRASH AND ITS INTERACTION WITH SEAT BELT USE

Perhaps the most sophisticated study which examines the effect of seat belts is by Evans who quantified the interaction between seat belt use and the impact velocity estimated at the time of the crash. His study showed very clearly that the relationship between seat belts and car speed at crash is in direct relation to the magnitude of the impact velocity, known as delta V. Evans, who is an analyst for General Motors R & D center, is a particularly important validator of this relationship. His study shows unequivocally that the probability of injury and the probability of fatality are direct functions of this seat belt use at any given impact velocity. The data contained in his study which was provided from the 1982–1991 NASS data. Information derived from the NASS weighted estimates of 398,371 unbelted drivers involved in motor vehicle crashes was compared to the weighted estimates for 305,541 belted drivers over the same period. He found that the probability of death in belted drivers at an impact velocity (delta V) of 30–34 miles an hour was 4.4 percent, compared to the death rate of unbelted drivers at the same delta V range of 7.9 percent. However, when the delta V range was increased by 10 miles an hour to 40–44 miles per hour, the fatality rate for belted drivers rose from 4.4 percent to 7.4 percent, but for unbelted drivers rose from 7.9 percent to 31.9 percent, a four-fold increase! Similarly, the injury rate at these two delta V ranges was 16.3 percent

for belted drivers in the 30–34 mile per hour delta V range, increasing to 21.6 percent in belted drivers at the 40–44 mph delta V range. In contrast, the injury rate in unbelted drivers rose from 24 percent at 30–34 mph range of delta V to 51.6 percent in the 40–44 mph range of delta V! This is very important information, since in our studies of causes and costs of injuries in multiple trauma MVC patients admitted to a Level I Trauma Center, a mean delta V of 30 mph was associated with a mean maximum speed prior to impact of 51 mph. Thus, it might be expected that an increase of only 10 mph in mean speed prior to crash (55 mph to 65 mph), if the speed limit was raised by 10 miles, might be associated with an increase in mean delta V of approximately the same magnitude (delta V 30 mph to 40 mph) in those MVC's of sufficient magnitude to produce hospital admission. This would be expected to result in two to four times the death rate and a two-fold rise in injuries, and cost.

COST EFFECTS OF MOTOR VEHICLE CRASHES

This quantifiable interaction between seat belt use and delta V would be expected to have a substantial impact on the costs of hospital care for motor vehicle injured patients since the extensive studies by Miller, Luchter, and Brinkman as well as our own studies (Siegel, Mason-Gonzalez, Dischinger, et. al.) have shown that the average costs of this class of injury (averaging an Injury Severity Score greater than 25) ranged between $75,000 to $99,000 (depending on the direction and type of crash) for hospital and professional services in the acute hospitalization and may run as high as $1.2 million for the lifetime costs of injuries of the AIS 4 and 5 level involving brain or spinal cord (Miller, et. al.). Indeed, comparing the study carried out by McKenzie, Shapiro, and Siegel which evaluated the 5,500 hospital trauma patients admitted in the State of Maryland during a single year period, to that of the 142 severely injured patients admitted to a Level I Trauma Center in the same State over the same time period (Siegel, Mason-Gonzalez, and Dischinger, et. al.) showed that these 142 multiple trauma MVC patients (less than 3 percent of patients) accounted for 10 percent of the total annual hospitalized costs for trauma in that State, or more than $10.5 million.

Our present studies, (Siegel, Loo, Addis, et. al.) from the New Jersey Trauma Center have confirmed these types of data and have also given a similar cost magnitude. They demonstrate that 531 consecutive motor vehicle crash patients admitted to the New Jersey Medical School-University Hospital generated allowable hospital charges of $11,921,776. Compared to the total MVC mean cost of $22,432 per patient in allowable charges, the severely injured study cases incurred a mean hospital allowed charge of $68,084 (Figure 3), which is almost exactly comparable to the cost incurred by the severely injured patients in the previously conducted Maryland study, if one examines only the allowed hospital charges excluding the professional fee charges. The more disturbing aspect of this high cost of MVC care is the heavy burden placed on the inner city academic medical centers, such as New Jersey's University Hospital. For example, in this institution the inadequate third party and self-pay reimbursement for these MVC cases (Figure 4) produced a loss of more than $5.62 million (47 percent of the allowed hospital charges) which required hospital care reimbursement by public funds. As an aside, in addition to the burden placed on such inner city academic institutions by unreimbursed motor vehicle injury costs, the losses due to violence related injuries (gunshot wounds 4.06 M, stab wounds 2.17 M, and assaults 1.64 M) produced an additional net deficit of $7.87 million because of the lack of adequate Medicaid or third party reimbursement for these largely young and uninsured victims of violent crime (Figure 4) This deficit amounted to 71 percent of the allowed hospital charges for these violence related injuries!

As a final point concerning restraint use, it is of great interest to examine the influence of brain injuries in MVC with regard to the impact to the total cost of vehicular crash in an institution such as University Hospital. Of the total of 531 consecutive trauma patients studied, 216 of these had an associated brain injury, including those with only loss of consciousness without demonstrable anatomic injury. This group of brain injured patients accounted for $4.7 million of the $11.9 million total, with the severe brain injury cases averaging $86,596 of allowable hospital charges, excluding professional fees.

AIRBAG SUPPLEMENTAL RESTRAINT SYSTEMS: A BENEFICIAL EFFECT ON COST OF SEVERE MOTOR VEHICLE INJURIES

Of promising interest in safety protection cost reduction is the fact that our preliminary studies of MVC crash cases in whom airbag protection was obtained through deployment of this supplemental restraint system, showed that the mean

allowable charges were reduced from the mean value of $68,084 found in all of the non airbag protected seriously injured cases (Figure 5) to $36,908 of allowable hospital charges for those with airbag protection, thus reducing the cost toward the New Jersey Trauma Center average of $22,432. These data suggest that the combined mandatory seat belt and supplemental air bag restraint systems may have a major impact in the reduction of MVC crash economics. As noted earlier airbags used with seat belts tend to reduce the severity of brain injuries and further decreased the incidence of injuries to the thorax and the internal organs lung, liver, spleen and kidney as well as face lacerations and fractures (Figure 2). However, it is important to stress that in the absence of seat belt restraints the beneficial effects of the airbag supplement restraint system are diluted with regard to protection against severe brain, lower extremity and pelvic fracture injuries, which are the most costly injury triad complicating the care of the surviving MVC patient, since non air bag protected patients with severe brain injuries averaged $86,596 of allowable hospital charges.

MOTORCYCLE CRASHES, DRINKING AND HELMET LAWS

Motorcycle accidents (MCA), although far less common than motor vehicle crashes involving automobiles are associated with a very high injury rate. As noted in the NHTSA General Estimates of 1990, there were 105,000 motor cycle injury events. The most dangerous of these involved collision with a motor vehicle in transport. Of these 74 percent were associated with an injury to at least motor cycle occupant. In a study of injured MCA accidents by Soderstrom and Dischinger, they found a 12.6 percent mortality, of these 53 percent of the MCA drivers tested positive for alcohol. When they examined culpability, it was found that of the MCA drivers who had no blood alcohol levels only 45.7 percent were considered culpable of causing the crashes in which they were injured, but 82.7 percent of the alcohol positive MCA drivers were considered culpable. These data correspond well with the findings at University Hospital: UMDNJ in Newark where over the last 3 years there has been an 11.4 percent mortality rate amongst MCA patients compared to only a 7.5 percent death rate for seriously injured MVC (MVA) patients (Figure 6), even though the absolute number of MCA patients was far fewer than the MVC (MVA) patients (Figure 7). Only gunshot victims had a higher mortality rate (19.7 percent). These MCA injuries have resulted in an average allowable charge of $25,041 compared to an average allowable charge of $22,432 for all University Hospital MVC patients. Moreover, the net loss on the MCA patients was 70 percent of the allowable charges, thus forcing the cost for their care onto public funds (Medicaid or charity reimbursement).

Many studies have suggested that motor cyclists who have utilized helmets have significant decreases in fatalities and debilitating injuries. The most recent large study using the American College of Surgeons Major Trauma Outcome Study by Copes, et. al., showed that surviving motor cycle injury patients who were helmeted had half of the incidence of brain injuries of non-helmeted patients and that survival was greater amongst the helmeted patients.

Similarly, a recent study conducted at Harborview Hospital in Seattle, Washington showed that enactment of a motorcycle helmet law reduced fatalities by more than 50 percent and was followed by a decrease in hospitalization for severe head injuries of 60 percent. The incidence of thoracic injury severity in the helmeted patients who died was much higher than in those with no helmet, suggesting that while the brain was protected these patients were subjected to much greater crash forces and that this caused the multiple body region injuries which were more frequently associated with death in the helmeted patients. However, in the surviving MCA patients there was a significantly higher percentage of helmeted patients who were discharged to home and a significantly lower percentage who required discharge to rehabilitation facilities, 8.5 percent in helmeted MCA versus 15.3 percent in the non-helmeted MCA patients. Thus, it seems clear that helmet use, because of its protection from brain injury, improves the outcome and reduces the medical costs for motor cycle crash victims. This study is also supported by the earlier study of McSwain and Bells who showed that the average hospital stay was nearly twice as long for those motor cycle injury patients without helmets and that the fatality rate was nearly 4 times greater for the non-helmeted motor cyclists. Thus, it seems clear that the use of protective devices such as safety belt restraints, and airbag supplemental restraint systems in motor vehicles, and helmets among motorcyclists are justified not only by the reduction in mortality rate, but also by the reduction in injuries with a consequent reduction in acute hospital care costs and post acute rehabilitation costs.

PASSENGER COMPARTMENT INTRUSION IN MOTOR VEHICLE CRASHES

The last component of motor vehicle crash prevention is related to the prevention of passenger compartment intrusion. This has been shown by Siegel, Mason-Gonzalez, Dischinger, et. al. to produce a more severe pattern of injuries, especially those to the pelvis and the lower extremities, as well as more severe head injuries and to result in large in-hospital costs for multiple surgical procedures. Intrusions related to passenger compartment failures have been shown by us to be significantly related to brain, pelvic fracture and lower extremity fracture injuries which have high costs. As examples, the location of the sites of crash injuries with regard to specific components of the passenger compartment is shown for 12 frontal crash cases with lower extremity injuries (Figure 8) and for 9 frontal crash cases with injuries to the pelvis and (Figure 9) for 5 lateral side crash cases with injuries to the pelvis (Figure 10). These data are also confirmed by the studies of Evans reported earlier, in which the degree of collision deformation of the passenger compartment was shown to interact with seat belt restraints in such a way as to reduce the effectiveness of seat belt protection. Airbags reduce face and brain contacts, but do not prevent lower extremity or pelvic contact-intrusion injuries (Figure 11).

AN OUNCE OF PREVENTION IS WORTH A POUND ($40 BILLION) OF CURE

It is important to emphasize that once an injury occurs, there is no way to avoid the crushing cost of medical and surgical treatment which totals more than $40 billion per year, excluding the indirect costs of loss of productivity and disability benefits. Since there is no "free lunch" in medical care costs, someone pays, either the purchasers of health insurance plans, or the taxpayers who cover the cost of the Medicaid and uninsured (charity care) trauma patients. Only prevention can reduce this national financial burden, which also raises the cost of health and motor vehicle insurance. Thus, legislation which reduces the incidence of teenage drunken drivers, which maintains speed limits, which mandates safety belt restraints and airbags in motor vehicles and helmets in motorcyclists and regulations which improve motor vehicle safety standards for passenger compartment intrusions are the most cost effective methods for reducing the escalating costs of motor vehicle crash injuries.

UNMET MOTOR VEHICLE CRASH PROTECTION NEEDS AND THE VALUE OF RESEARCH

While seat belts have been shown on rare occasion to be responsible for certain types of injuries, most significantly injuries to the chest wall and to the hollow viscera such as the small and large intestine, these injuries are of low incidence and have only little economic significance in the larger scheme of total motor vehicle crash injury. More important, however, is the fact that seat belt restraints will not in themselves protect against lateral impact crashes since the intrusion into the passenger compartment. As shown, by our studies and those of others reported earlier, will allow the total impact velocity force to be brought to bear against the lateral body structures including the chest wall, the pelvis and the brain, due to the close proximity of the head and body torso to the side door structures. Only adequate side door standards and possibly some form of lateral airbags to protect pelvis and brain is likely to substantially reduce this class of injury. To investigate these safety issues further, continued Crash Studies of real life Motor Vehicle Crashes as well as motorcycle injuries need to be carried out, since the NCAP testing with dummies uses unrealistic frontal barrier crash models and does not in any medically valid manner duplicate many of the most serious patient injuries, especially those to soft tissue structures which produce the greatest disability, notably brain and visceral injuries. Furthermore, real life crash studies are the only way to assess the cost effectiveness of safety measures in reducing health care costs related to motor vehicle crash injury.

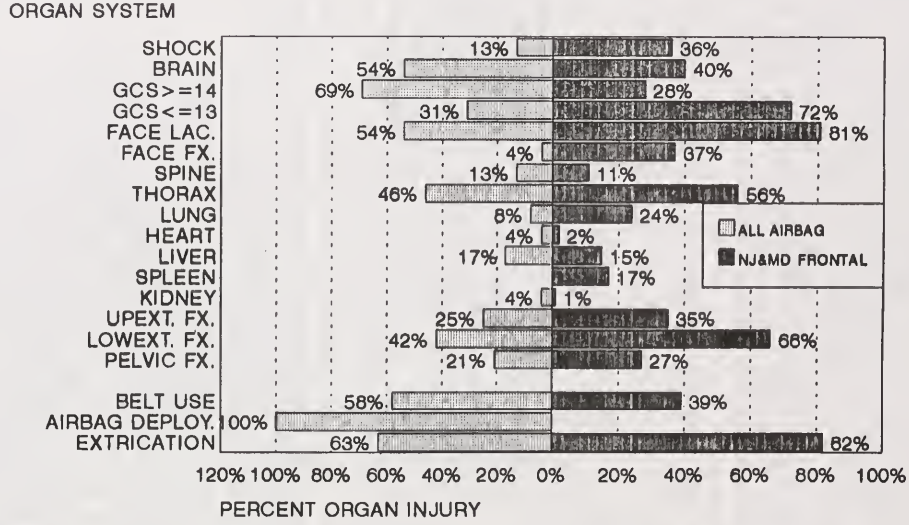
MOTOR VEHICLE SAFETY IS GOOD BUSINESS FOR AMERICA

Not only does effective motor vehicle safety legislation benefit consumers, but it is also good business since a reduction in motor vehicle injury costs will also reduce the cost of health insurance, which is the largest non manufacturing cost of production in the motor vehicle industry. Moreover, since many automobile insurers give a discount for added safety devices and reduced MVC injury costs will also reduce auto insurance premiums since customers are already tending to choose cars with better safety construction standards. Improving on safety standards gives the manufacturer of such vehicles a competitive edge amongst safety conscious buyers, who tend to purchase middle and upper range vehicles. To reverse the famous aphorism of Engine Charlie: "What's good for America is good for General Motors" . . . and

MOTOR VEHICLE CRASH STUDY PROJECT

ASSOCIATED INJURIES-GENERAL INJURY

FRONTAL: ALL AIRBAG CASES vs. ALL NJ&MD NO AIRBAG



N: All Airbag=24, NJ&MD no Airbag=89

35GE0110

Figure 1

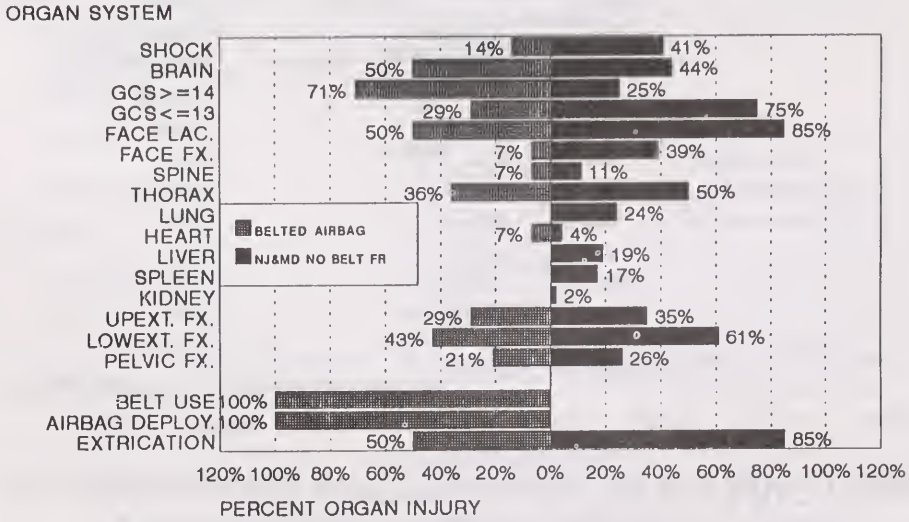
UMD NEW JERSEY

Ford and Chrysler . . . and the now and future US manufacturers Honda, Toyota, Mercedes, BMW, Saab, Volvo . . . and most of all for you and me.

MOTOR VEHICLE CRASH STUDY PROJECT

ASSOCIATED INJURIES-GENERAL INJURY

FRONTAL: BELTED AIRBAG vs. NJ&MD NON-BELTED NO AIRBAG



N: Belted Airbag=14, NJ&MD Non-Belted no Airbag=54

35GE0212

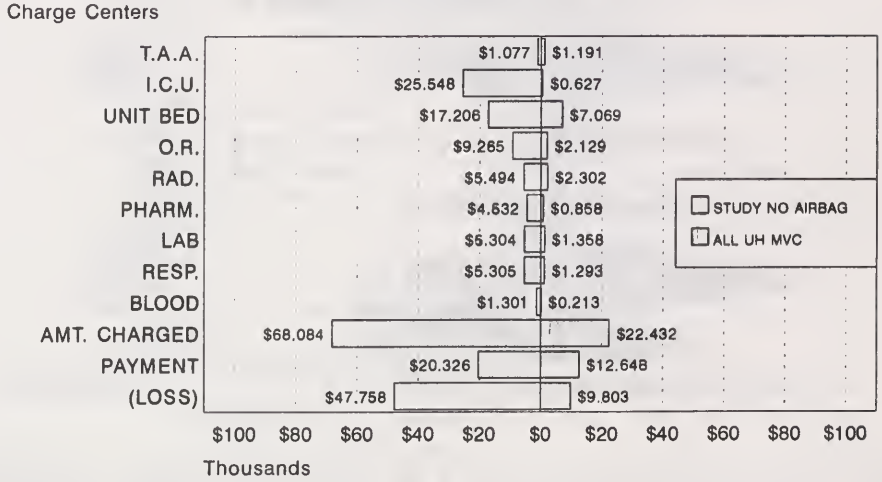
Figure 2

UMD NEW JERSEY

Motor Vehicle Crash Study Project

COMPARISON - ECONOMICS OF CARE

NJ Multi-trauma MVC Cases vs. All UH MVC Cases



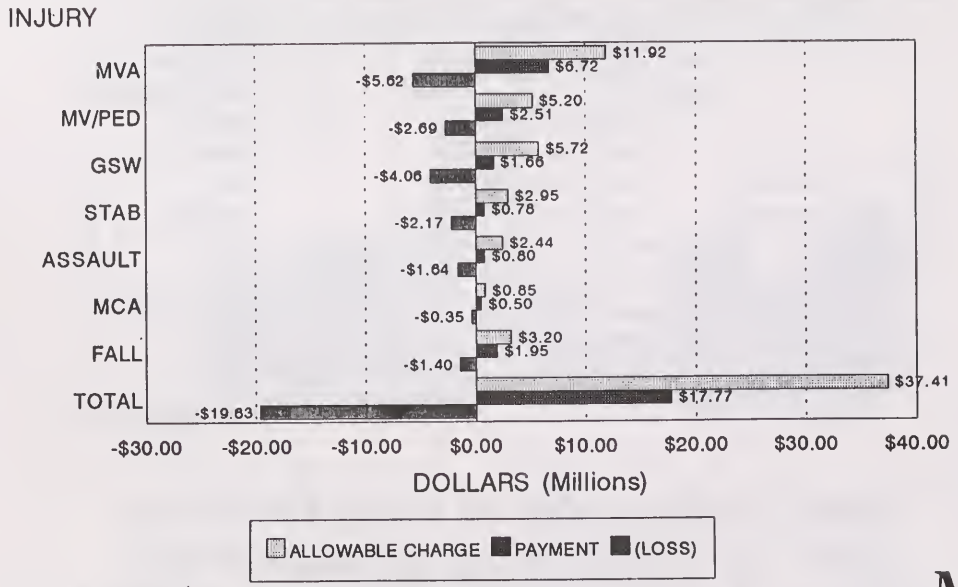
Average Length of Stay: NJ Non-Airbag Study = 28.1 days; All UH MVC = 8 days
Avg. ICU-LOS: NJ Non-Airbag Study = 9.2 days; All UH MVC = 2 days

eco0304

Figure 3

UMD NEW JERSEY

NEW JERSEY TRAUMA CENTER
TOTAL ECONOMICS OF CARE



MVA N=531, MV/Ped N=183, Stab N=179, GSW N=260,
Assault N=145, MCA N=34, Fall N=142, Total N=1661

ECOGEN2

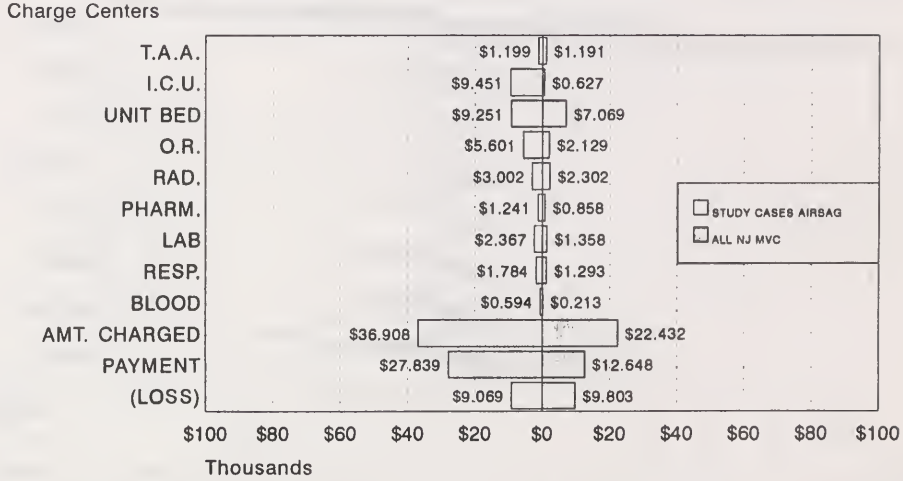
Figure 4

UMD NEW JERSEY

Motor Vehicle Crash Study Project

COMPARISION - ECONOMICS OF CARE

NJ Airbag Cases vs. All UMD MVC Cases



Average Length of Stay: All NJ Airbag Study = 20.2 days; All UMD MVC = 8 days
Avg. ICU-LOS: All NJ Airbag Study = 9.7 days; All UMD MVC = 2 days

eco0204

Figure 5

UMD NEW JERSEY

NEW JERSEY TRAUMA CENTER - UMDNJ

PERCENT OF TRAUMA DEATHS BY MECHANISM OF INJURY

1992 - 1994 AVERAGE PER YEAR

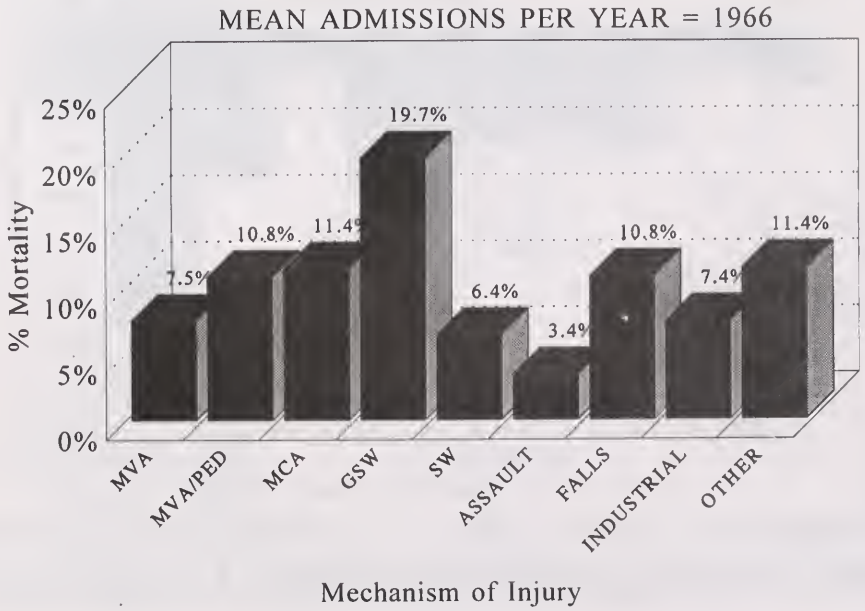


Figure 6

NEW JERSEY TRAUMA CENTER - UMDNJ

TRAUMA ADMISSIONS BY MECHANISM OF INJURY

1992 - 1994 AVERAGE PER YEAR

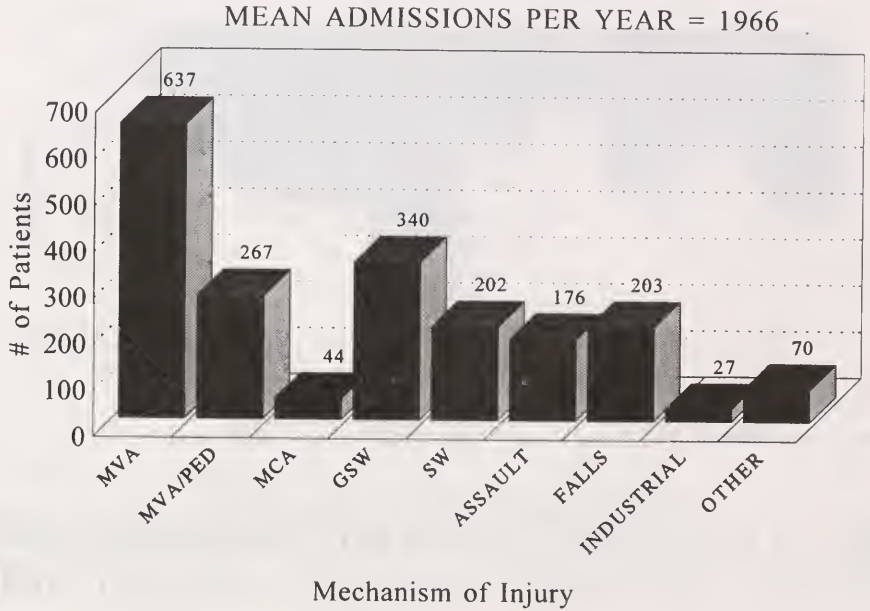


Figure 7

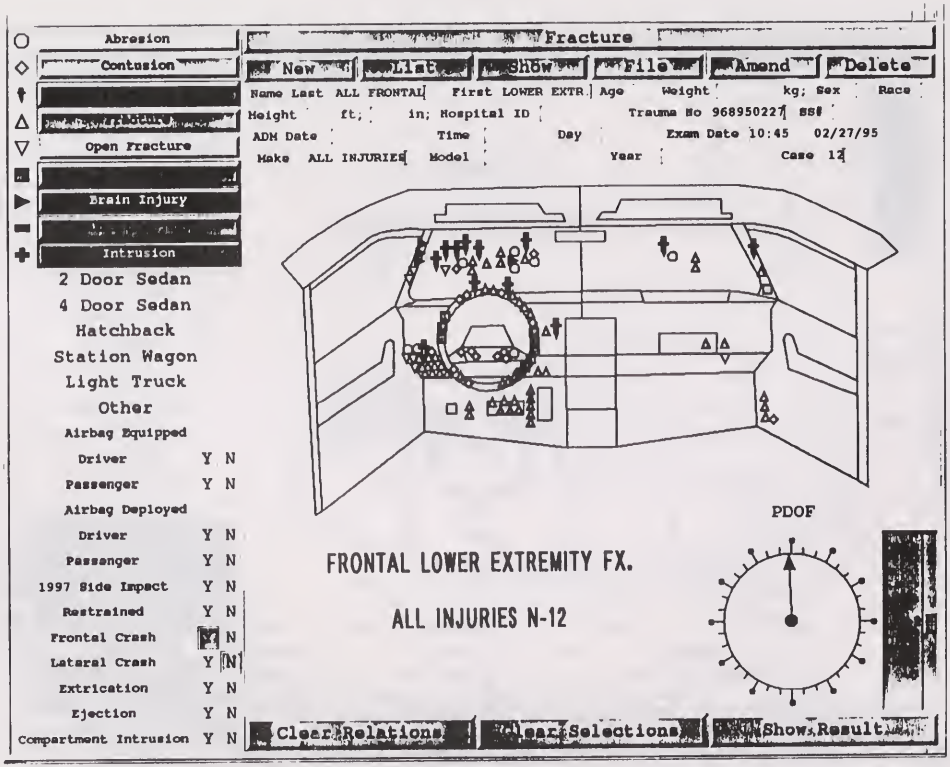

Abrasion
Contusion
Open Fracture
Brain Injury
Intrusion
2 Door Sedan
4 Door Sedan
Hatchback
Station Wagon
Light Truck
Other
Airbag Equipped
Driver Y N
Passenger Y N
Airbag Deployed
Driver Y N
Passenger Y N
1997 Side Impact Y N
Restrained Y N
Frontal Crash Y N
Lateral Crash Y N
Extrication Y N
Ejection Y N
Compartment Intrusion Y N
Fracture
New
List
Show
File
Amend
Delete
Name Last ALL FRONTAL First LOWER EXTR Age Weight kg; Sex Race
Height ft; in; Hospital ID Trauma No 968950227 SS#
ADM Date Time Day Exam Date 10:45 02/27/95
Make ALL INJURIES Model Year Case 12
PDOF
FRONTAL LOWER EXTREMITY FX.
ALL INJURIES N-12
Clear Relations
Clear Selections
Shows Result

Figure 8

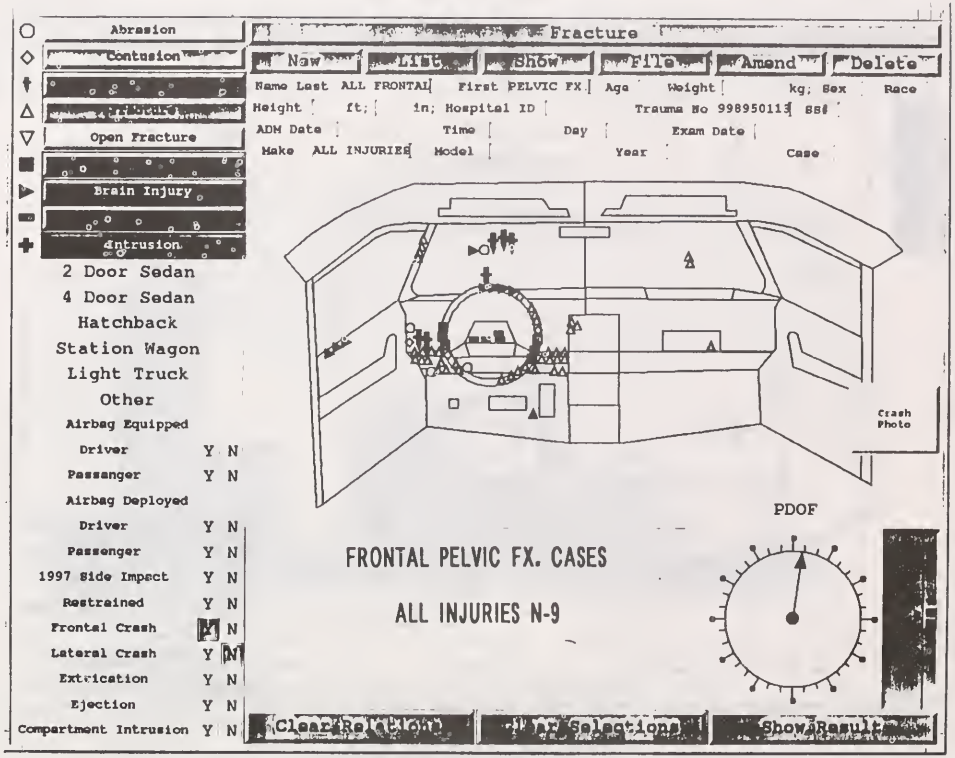

Abrasion
Contusion
Fracture
Open Fracture
Brain Injury
Intrusion
Fracture
New
List
Show
File
Amend
Delete
Name Last ALL FRONTAL First PELVIC FX Age Weight kg; Sex Race
Height ft; in; Hospital ID Trauma No 998950113 SS#
ADM Date Time Day Exam Date
Make ALL INJURIES Model Year Case
2 Door Sedan
4 Door Sedan
Hatchback
Station Wagon
Light Truck
Other
Airbag Equipped
Driver Y N
Passenger Y N
Airbag Deployed
Driver Y N
Passenger Y N
1997 Side Impact Y N
Restrained Y N
Frontal Crash Y N
Lateral Crash Y N
Extrication Y N
Ejection Y N
Compartment Intrusion Y N
Crash Photo
PDOF
FRONTAL PELVIC FX. CASES
ALL INJURIES N-9
Clear Selections
Show Results

Figure 9

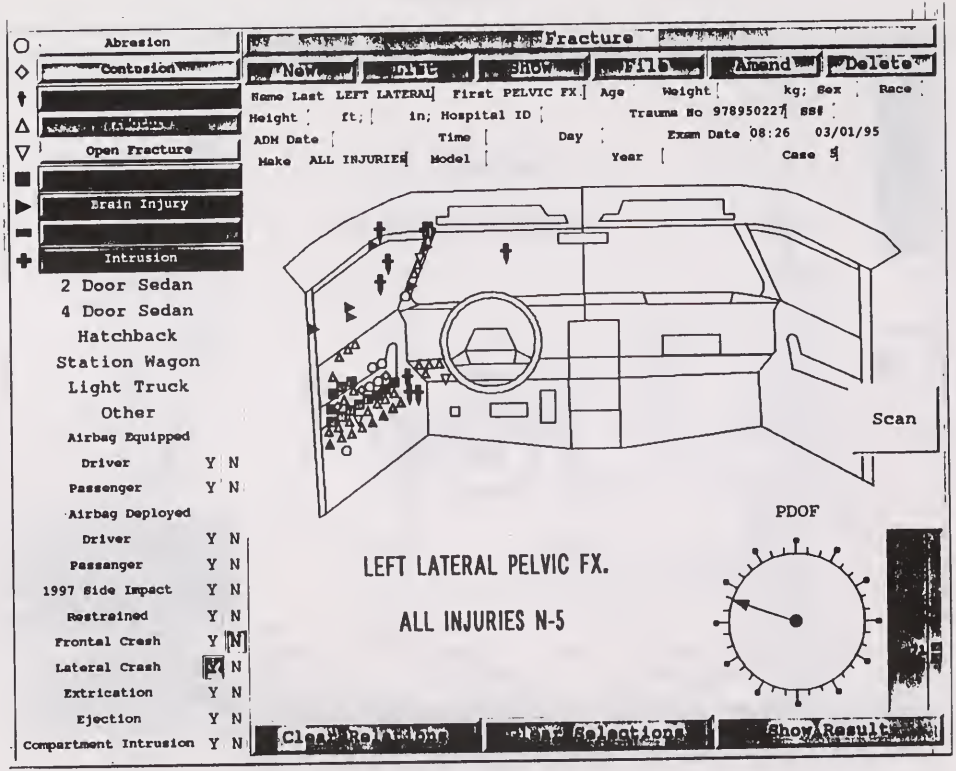

Abrasion
Contusion
Open Fracture
Brain Injury
Intrusion
2 Door Sedan
4 Door Sedan
Hatchback
Station Wagon
Light Truck
Other
Airbag Equipped
Driver Y N
Passenger Y N
Airbag Deployed
Driver Y N
Passenger Y N
1997 Side Impact Y N
Restrained Y N
Frontal Crash Y N
Lateral Crash Y N
Extrication Y N
Ejection Y N
Compartment Intrusion Y N
Fracture
New
Edit
SHOW
File
Amend
Delete
Name Last LEFT LATERAL First PELVIC FX Age Weight kg; Sex Race
Height ft; in; Hospital ID Trauma No 978950227 SS#
ADM Date Time Day Exam Date 08:26 03/01/95
Make ALL INJURIES Model Year Case 5
Scan
PDOF
LEFT LATERAL PELVIC FX.
ALL INJURIES N-5
Show Result

Figure 10

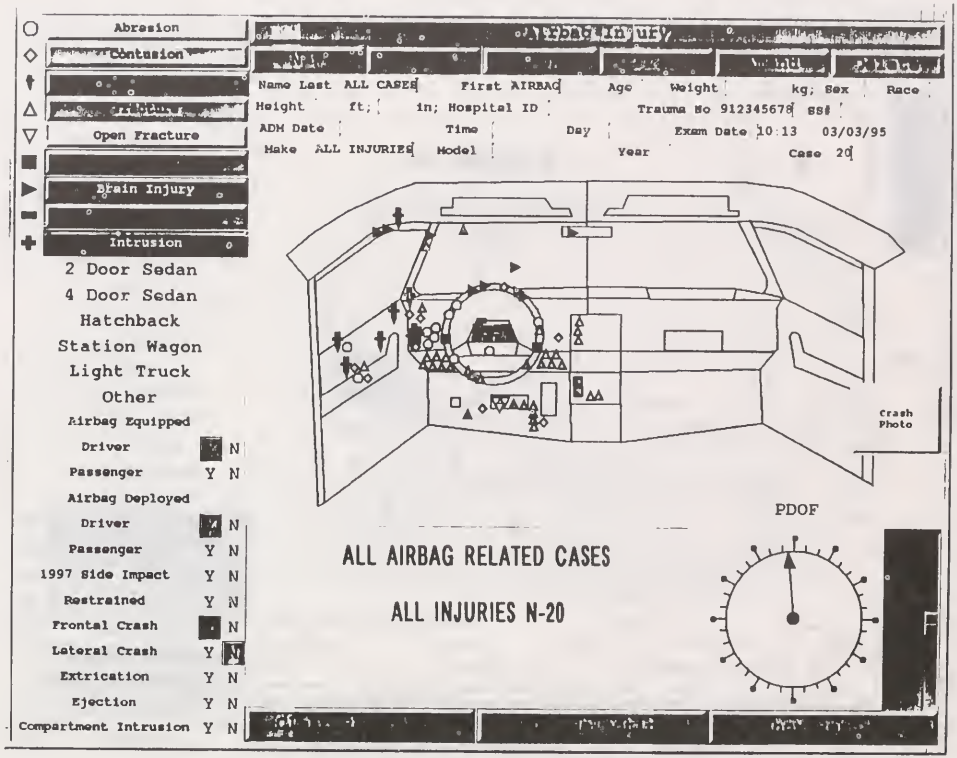

Abrasion
Contusion
Open Fracture
Brain Injury
Intrusion
Name Last ALL CASES First AIRBAG Age Weight kg; Sex Race
Height ft; in; Hospital ID Trauma No 912345678 SSN
ADM Date Time Day Exam Date 10:13 03/03/95
Make ALL INJURIES Model Year Case 20
2 Door Sedan
4 Door Sedan
Hatchback
Station Wagon
Light Truck
Other
Airbag Equipped
Driver Y N
Passenger Y N
Airbag Deployed
Driver Y N
Passenger Y N
1997 Side Impact Y N
Restrained Y N
Frontal Crash N
Lateral Crash Y N
Extrication Y N
Ejection Y N
Compartment Intrusion Y N
Crash Photo
PDOF
ALL AIRBAG RELATED CASES
ALL INJURIES N-20

Figure 11

Before the

UNITED STATES SENATE
TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

April 12, 1995
Washington, D.C.

Statement of the

AMERICAN TRUCKING ASSOCIATIONS, INC.

On

DESIGNATION OF THE NATIONAL HIGHWAY SYSTEM UNDER TITLE I OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991 (ISTEA)

Thomas J. Donohue
President & CEO

SUMMARY OF STATEMENT

I. INTRODUCTION

A. ATA Represents the Trucking Industry

B. The Trucking Industry Serves America

C. The NHS is the Backbone and Cornerstone of Our Transportation System

II. BENEFITS OF THE NATIONAL HIGHWAY SYSTEM - IN WHAT ARE WE INVESTING?

A. Providing Jobs and Economic Vitality

B. Promoting International Competitiveness and Intermodal Access

C. Promoting Increased Highway Safety

D. Promoting Technology and Improving the Environment

E. Connecting America

III. THE BEST BILL IS A CLEAN BILL

A. The NHS and the Highway Trust Fund - Needed to Repair Roads and Bridges

B. The Federal Contract Mandate - Evolution From "Good Intent" to "Regulatory Siphon"

C. Preserving the Goals of the NHS: Safety and Efficiency

D. A "Transportation System" is More Than Just a Budget Item

IV. SUGGESTED ACTION

A. Act Quickly

B. Remain Focused

C. Failure to Adopt the NHS - Impair America's Economic Future

V. CONCLUSION

I. INTRODUCTION

A. ATA Represents the Trucking Industry

The American Trucking Associations (ATA) is the national trade association of the trucking industry. The ATA federation includes more than 4,500 carriers, affiliated associations in every state, and 12 conferences. Together, ATA represents every type and class of motor carrier in the country. Combined with ATA's direct membership, we are a federation of over 34,000 member trucking companies. All across the country ATA represents businesses whose survival depends upon a quality work place - the highway network.

ATA wishes to thank the members of the Senate Surface Transportation Subcommittee for scheduling these hearings on the adoption of the National Highway System (NHS). The leadership of this subcommittee, and the full committee, has historically placed a great emphasis on our nation's physical infrastructure and its role in shaping the lives of all Americans. The chairmen especially have championed the positive role of government in creating and maintaining a safe, high-quality, and well-connected, nationwide road transportation system.

The purpose of today's hearing is really about defining our future - not just transportation policy. It is about the future of our country's economic growth and our ability to maintain a high quality of life for our citizens. It is about building on the foundation of the Interstate Highway System, a 40-year pathway of progress, so that we are *able to grow further*. These hearings will help determine how we plan and implement programs to maintain, restore, rebuild, and reinvest in essential transportation facilities. This "rebuilding" of America is an important step toward the goal to revitalize and preserve a strong national economy, particularly in the face of international competition. It is an investment program with far-reaching strategic returns.

Transportation's role in society is immense. In the United States, seventeen cents out of every dollar of Gross Domestic Product, and 12 cents of every consumer dollar goes for transportation services - *nearly $1 trillion per year.* One out of ten US jobs involves making or servicing transportation equipment and infrastructure, or providing transportation services. As the major component of our physical transportation infrastructure, highways naturally account for the largest modal share of government investment in it - about $1 trillion of our total investment of $1.4 trillion - *71 percent!* The National Highway System represents the most critical of these roads, carrying 75% of commerce, 80% of all tourist movement, and about 40% of all surface transportation travel in this country.

But, more than statistics can reflect, the freedom of mobility our transportation system provides for people and freight is fundamental to our way of life. Further, the flexibility it provides business is integral to our economy. The trucking industry has a direct stake in this national, strategic system of roads. It is our work place.

B. The Trucking Industry Serves America

Trucking is the nation's largest freight revenue transportation mode. The trucking industry employs 7.8 million people throughout the economy in jobs that relate to trucking activity -more than the separate populations of 42 of our 50 states. We have gross freight revenues of more than 5% of the Gross Domestic Product (GDP) -- more than $372 billion in 1994. Trucks haul over 77% of all manufactured goods and transport 45% of total tonnage shipped by all modes - 3.1 billion tons of freight annually.

Based on preliminary projections, we anticipate that by the year 2000, domestic freight tonnage will have increased 30% over 1992 levels. Between 1992 and the year 2000, the number of freight trucks (classes 6, 7 & 8) needed to haul it will climb 8.3%, to three million, and the miles these vehicles will be required to travel to deliver this freight will increase 31%. And all of this is if economic growth is at a conservative 2.8% per year. Further, the vast majority of the nation's communities - *seventy-five percent* - rely on trucking as their only means of freight delivery (Rand McNally, Inc., 1993).

Considering the above figures, it becomes abundantly clear that we need to insure that there is a highway system which will provide the capacity and connectivity to meet the increased demands safely and efficiently. Without investment in such a system, the economy will be constrained and factories, jobs, and economic strength will be lost. In short, America is changing in anticipation of twenty-first century demands and available technology. So must its transportation system.

We need investment in the National Highway System. It is the backbone and connector for all surface transportation modes.

C. The NHS is the Backbone and Cornerstone of Our Transportation System

The trucking industry seeks a unified, well-connected system which promotes and maximizes the efficient movement of goods, people and information. The authors of ISTEA recognized the importance of using all modes to achieve this efficiency, and rightly so. However, as acknowledged by the Federal Highway Administration in its report to Congress, on 9 December, 1993, "the National Highway System will serve as the *backbone* of a national intermodal transportation network." The NHS program addresses the problem of movement within cities - a fact reflected in that 25% of all NHS miles are within urban areas. Just as important, these areas must be linked together and bound to our rural and suburban areas by a system of modern, well-maintained roads, highways and bridges, interconnected to the appropriate rail, airport and port facilities.

Presently, 60% of U.S. households are within five miles of an Interstate highway. However, 90% of all households will be that close to an NHS route. That means an additional 72

million Americans will be served by NHS routes. Likewise, 95% of U.S. businesses will be within five miles of an NHS route, compared to 70% that are that close to the Interstate today.

The National Highway System is not a road building program. It emphasizes the maintenance, preservation, improvement, and management of 159,000 miles of roads deemed the most critical to meeting America's future civil and defense transportation needs. In fact, the NHS comprises only **4%** of the country's **3.9 million** miles of public roads. Of the 159,000 miles on the system, **less than 2%** will involve totally new routes.

II. BENEFITS OF THE NATIONAL HIGHWAY SYSTEM - IN WHAT ARE WE INVESTING?

A. Providing Jobs and Economic Vitality

"The long term economic returns from a national system such as the NHS are very high, and probably not achievable through a series of localized investments." "By reorienting public spending priorities to upgrade and expand our infrastructure, we can be confident that we will heighten our productivity of the work force and improve [America's] position in the increasingly competitive international work place." The statement comes from a study performed by Apogee Research, Inc., of Bethesda, titled, The Economic Importance of The National Highway System, With Case Study Examples. The second is from, The National Highway System: The Key to The Future by the Western Highway Institute (WHI), San Bruno, CA. The WHI study naturally focuses more on the importance of the NHS to western economies, where highways are the sole service mode for more than 75% of the region's communities.

These two studies do more, however, than just list the benefits of the NHS. They give us tangible evidence of the need for good highways by describing the operations and needs of seven U.S. companies, all leaders in their fields, and together having locations in every state in the country. They represent every facet of the product chain, from the manufacturer, the distributor, to the retail outlet. And, they all employ the latest advances in transportation logistics, including "Just In Time" (JIT) manufacturing processes and "Rolling Stock" inventory management. These techniques reduce company inventory costs and help improve the productivity of U.S. industry.

Although the products they manufacture and ship are quite different from each other, each company reports a common need and reliance upon an exceptional highway network. In fact, each company links its present and future success to the existence of such a system. A copy of the Apogee study is being provided to the subcommittee, but the following is a summary of the findings by company:

- Campbell Soup Company depends on a good network of arterial highways and Interstates to achieve reliable JIT delivery of its food products and to support strategic alliances with

its suppliers.

- Hewlett Packard Company needs the flexibility provided by our highway system to move products reliably and efficiently.

- The Limited efficiently stocks a nationwide network of 4,425 retail clothing stores in 48 states from a centralized distribution center in Columbus, Ohio, almost entirely by use of reliable long-distance trucking.

- Saturn Corporation competes successfully against foreign manufacturers of small cars by employing JIT manufacturing processes made possible by an effective, nationwide highway system.

- Xerox Corporation depends on an efficient highway system to reduce order cycle times and reduce inventory costs, which makes its products more competitive in all markets.

- Thrifty Drug, Inc., with a network of 490 stores throughout California, relies on thirty minute windows to maintain their Just-In-Time delivery schedules which are accomplished on a 24-hour a day basis, seven days a week.

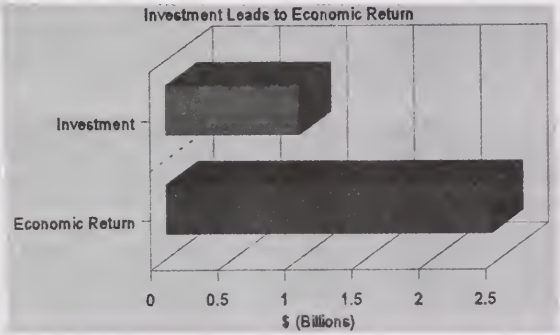
- A high-quality, accessible highway system is critical to Smith Food and Drug Centers. With stores in Utah, Idaho, Nevada, California, Arizona, Texas, Wyoming and New Mexico, virtually 100% of outbound and inbound product movements to its stores are by truck. A reliable transportation system provides an on-time delivery performance of better than 90%.

Together, these companies that depend on the presence of an exceptional highway system employ ***361,000 people*** and had 1994 combined revenues of ***$52.6 billion*** (Dunn & Bradstreet Corp. 1994). And these are only the indirect benefits of a National Highway System.

As seen in Figure 1 on page five, every additional $1 billion invested in our nation's highway infrastructure generates an estimated additional output of goods and services of about $2.43 billion. Of this, $1 billion is the value of the actual highway construction, but the rest, $1.43 billion, is the value of the output of goods and services generated by the investment in the infrastructure. For every $1 billion invested in highways, we create 24,300 additional jobs. Some of these people are directly employed in the construction of the infrastructure, about 10,640 persons. On average, however, for every 100 workers employed in infrastructure improvement, about 128 jobs are created elsewhere in the economy (Highway Construction: Its Impact on the Economy: Congressional Research Service, The Library of Congress, #93-21E, January 6, 1993). Expanding this relationship to our total federal investment in the NHS from 1995 to 1997 at authorized levels for the NHS and Interstate maintenance translates into close to **500,000** jobs. Even more are added, noting that NHS funds are matched by 20% funding from the state level.

Figure 1

Infrastructure Investment



Smart investment in our nation's transportation infrastructure not only serves the domestic interests of America. It provides a broad range of economic productivity and growth benefits on an international scale as well.

B. Promoting International Competitiveness and Intermodal Access

For America, an intensely competitive global marketplace is no longer something existing on the horizon; we live in it *today* - and the contest is *now*. The National Highway System responds to the fact that American economic growth increasingly depends on how well we fare against our competitors in the world economy. Recent trade agreements such as NAFTA and the GATT only serve to underscore the importance of international trade and the pressures it places on American companies to stay competitive.

An efficient and well-connected interstate system is essential to survival and prosperity in our 21st century fast-paced economy. A transportation system must allow flexibility. The NHS will. Fast and efficient movement of freight is now critical to the success of "Just in Time" manufacturing processes and rolling stock programs mentioned above. The NHS will reduce U.S. transportation logistics costs, making American goods more competitive at home and abroad. The NHS also provides the essential links to make intermodal operations work.

ATA recognizes that a critical component of the National Highway System is access to intermodal freight terminals and the connections among such facilities. These connectors - which are often short, one to 2-mile links between ports, rail terminals, air cargo facilities, and interstate highways - frequently represent the major choke points in a freight delivery system. Identification, designation, improvement, and management of these critical links would dramatically improve our nation's productivity, regional economic development, and our global competitiveness. Intermodal freight transportation is growing at a rate of 10% per year, and is expected to remain at that rate through the year 2000. So, a small investment now in intermodal connectors and access would pay off in large dividends in the immediate future.

The NHS will provide for the reliable transport of goods and people among all points - from the supplier to the final market. Additionally, these "final markets" and many suppliers are increasingly being found in another country. This certainly is true for states with international borders. The National Highway System program recognizes the relationship between an efficient North American highway network and a successful economy. It expands the federal-aid focus and incorporates a total of *53 border crossings* (up from 16 Interstate Highway System border crossings) which will improve service between the US and two of its major trading partners - Canada and Mexico. Furthermore, the reliability and safety of a transportation system, one which addresses current **and** future needs, is a key performance factor in a firm's decision to site a major new facility, or a large job provider's decision to move.

A focused investment in a National Highway System, just **4%** of all the roads in the country, *will help secure and protect America's place in the global economy.*

C. Promoting Increased Highway Safety

The value of every modal element of a transportation system is greatly enhanced if it can be used safely. It must be designed not only with efficiency in mind, but with operational safety designed into it as well. This is an issue of fundamental importance to ATA.

ATA has initiated numerous programs for the trucking industry to improve the safety of our nation's highway system, including: training programs and schools for drivers and supervisors; management programs to assure safe vehicles, safe drivers, and safe operations; research to reduce accident experience; and, programs to improve vehicle performance, especially in the area of brakes. We also have been strong and early advocates for the establishment of the Motor Carrier Safety Assistance Program; the Commercial Driver's License; requirements for random drug and alcohol testing; and, banning radar detectors.

These safety measures are paying off through the efforts of many people, including Congress, the DOT, the motor carrier industry and, most important, the drivers. Accidents involving commercial motor vehicles are showing a steady decline per 100 million miles traveled.

According to the USDOT (National Highway Traffic Administration Fatal Accident Reporting System), between 1983 and 1993, the number of fatal accidents has dropped 11.3%, the fatal accident rate dropped 36.6%, the number of fatalities has decreased 11.7%, while the *number of vehicle miles of travel has increased 40.9%.*

Though the above safety results build on practices of the past, the National Highway System stands to be a program that works in concert with industry efforts and uses new technology, further improving highway safety in the future.

Increased safety is an important factor in the designation of the NHS. National Highway System routes will have high quality design features to provide maximum safety, thereby reducing accidents. In 1993 alone, there were **40,115** highway fatalities, representing a **$28 billion** economic loss, not including injuries and property damage.

While only 11% of the fatal accidents in 1993 involved a truck (even though trucking accounted for 13% of total VMT), the new National Highway System will help us to meet the USDOT's national goal of reducing the overall highway fatality rate by **7%** annually by:

Relieving congestion at bottlenecks - increasing capacity at these hazardous points reduces congestion, which reduces accidents.

Controlled Access Intersections - these help to facilitate traffic flow and mitigate congestion, minimizing accident exposure.

Incident Detection and Management - new technologies can help reduce incidents and also enhance the ability to manage them, thereby improving safety.

Because of the huge unmet investment needs on the NHS, ATA is actively working at the state and local level to insure that NHS funds are being used to meet critical highway and bridge needs and not being diverted to other types of projects that do not contribute to mobility and safety.

D. Promoting Technology and Improving the Environment

The National Highway System will help advance U.S. transportation technology and expertise, making our transportation system not only more efficient and competitive internationally, but also helping to reduce its impact on the environment.

The federal government now spends millions annually developing Intelligent Transportation System (ITS) technologies to move people, information and freight more safely and productively. Many of these new technologies are built right into the existing highway. In urban areas where these new practices will improve traffic flow, tailpipe emissions of carbon

dioxide and hydrocarbons can be reduced by as much as 30% compared to stop-and-go congestion, thereby helping to clear the air. The relatively modest but significant mileage of the NHS is the perfect proving ground for ITS technology.

We all want to balance what is good for our economy and communities with what preserves and enhances our environment. ISTEA is the first transportation program to tie together these two goals, and to realize that they need not compete, but can actually complement one another.

E. Connecting America

The NHS will provide access for more Americans in more communities to the expanding economic opportunities (jobs) available from our global economy. It will connect important urban centers not currently served by an interstate highway.

With safety upgrades, technology improvements, and enhanced design features, NHS corridors and routes will make it easier for people to get to and from work, schools, colleges, the doctor's office, and the grocery store. It will help move food and raw materials from rural America to its cities and ports, as well as improve our defense mobility in times of crisis. It will help to sustain a valued way of life for millions of Americans, especially those in states which have relied traditionally on highway transportation and whose populations are too small and development too spread out to support other modes. The NHS will also include routes serving national parks and other major travel destinations. American and foreign tourists, with the NHS, can expect to enjoy traffic flow and safety improvements on the highways they use to see and enjoy the country.

The NHS is the appropriate entity for investing in design, construction and management elements so as to mitigate some of the impacts of natural disasters such as floods in ways that maintain connectivity for emergency vehicles and commerce.

III. THE BEST BILL IS A CLEAN BILL

A. The NHS and the Highway Trust Fund - Needed to Repair Roads and Bridges

Whatever label is given to *change* - "productivity," "total quality," "accountability," "re-invention" - we know that Congress and the USDOT are involved in it in a big way. Responding to a challenging agenda, the USDOT embarked on an ambitious program of restructuring designed to consolidate numerous programs and save billions of dollars. *Unfortunately, some of the USDOT's proposals are at the expense of funds dedicated to highways.*

The current Administration's proposal calls for all major surface transportation infrastructure projects to be financed by trust funds. These funds are collected from fuel taxes (trucks contribute about $8 billion a year) and other user fees with the expectation that the revenues are to be spent to benefit the fee payer. The Aviation Trust Fund is estimated to have a balance of $3.8 billion. The Highway Trust Fund - more than $21 billion. The Highway Trust Fund in particular, under the new proposal, would be tapped to pay for USDOT bureaucracy, transit operating subsidies and AMTRAK passenger train subsidies in addition to current highway programs. This robbery of the trust fund violates the very principle on which the trust fund was founded! This proposal is even more disturbing considering the tremendous *backlog* of infrastructure needs America has developed.

Policy conflicts and budget tradeoffs have shortchanged the country's infrastructure system for years. Despite transportation's overriding importance, these battles have resulted in a stock of facilities in need of billions of dollars in improvements - an ever-growing crisis for the nation with increased economic consequences the longer we wait.

For example, more than 234,000 miles (about 25 percent) of the nation's federal-aid highways are in poor to mediocre condition. The cost to repair is *$212 billion.*[1] There are approximately 118,000 structurally deficient bridges in the U.S. The cost to upgrade is *$78 billion.*[2] The above figures represent only the cost to repair the infrastructure. Other costs accrue daily to America's driving public in several ways. Worsening road conditions and distressed pavements increase the cost of vehicle maintenance as suspension systems fail from continuous jarring. Safety is also compromised by roads in poor condition because such roads make driving unpredictable, which increases accidents.

The figures are even more disturbing when we examine the NHS. Right now, *only 34% of National Highway System mileage is reported to be in "good" to "very good" condition* (1993 Highway Statistics; Federal Highway Administration; USDOT). This means that a full *two-thirds* of the highways Americans use most for commuting and for commerce are not in the safe and sound condition they were when originally built. ATA believes: the NHS is a system too critical to America's passenger and freight transportation needs to be allowed to deteriorate further.

Aside from pavement conditions, large scale truck commerce to and from our ports is hampered by congested roadways. In 1991, urban roadways were congested 61 percent of the time. The cost to our economy in lost productivity is ***$39 billion.*** Without investment in modern, high performance transportation systems, our country is at a competitive disadvantage to other

---

[1]The Status of the Nation's Highways, Bridges and Transit: Conditions and Performance - Report of the Secretary of Transportation to the United Stated Congress; January, 1993, pg 200.

[2]Ibid, pg 214.

country's which are investing hundreds of billions of dollars to deliver their goods to market more efficiently.

In addition to the above, other pressures, i.e., balancing the budget, deficit reduction, reduced regulations and spending, place tremendous strain on the Highway Trust Fund to pay for these reductions. What may be cut, simply out of the inability to pay, is the federal government's explicit role in a national interstate road system. In short, the National Highway System must be designated by Congress, protected, and adequately financed.

B. The Federal Contract Mandate - Evolution From "Good Intent" to "Regulatory Siphon"

A contract mandate is a device that attaches stipulations on the receipt of federal funds. While many mandates were devised to advance well-meaning goals and objectives, ATA believes that, because of the unchecked procession of them over the years, mandates seemed to have become removed from sound cost/benefit analyses. In other words, the basic questions, "Does it *add* value?", "How much will this cost?", were not ardently considered.

Such has been the case in our federal-aid highway program. Nearly twenty mandates, ranging from a "junk yard control and acquisition" provision to "use of recycled paving material," have added to the cost of meeting America's transportation needs. Mandate compliance removes funds from the core program to pay for what often is minimal benefit at great expense. Not only do contract mandates consume scarce funding, they cause delays and create public frustration in initiating and completing important transportation projects. With the large existing backlog of infrastructure needs in this country, and the *severely* limited transportation resources, we must closely examine this serious problem. ATA believes that Federal agencies should work with State and local government to reduce the regulatory and procurement barriers to the efficient provision of a surface transportation infrastructure.

C. Preserving the Goals of the NHS: Safety and Efficiency

The NHS is more than just lines on a map. It was conceived as a fiscal strategy to leverage and place limited transportation resources where they will go the furthest - on the 4% of roads that carry the majority of commercial and passenger traffic. The NHS also represents a design strategy to maximize safety and foster productivity through road improvements that benefit all who pay for and use the system. Consequently, tying any amendment to the NHS which would threaten its passage would be *contrary* to our mutual goal of safely and efficiently moving the country's freight.

D. A "Transportation System" is More Than Just a Budget Item

As various forces compel the elimination of agencies, programs, and people, hard spending choices will have to be made. The question will be whether the integrity of our national highway system can be maintained in this difficult environment. *The answer is that it must.*

The reason is that any legitimate national growth and competitiveness strategy has to maintain a clear and convincing distinction between genuine public investments and other spending that, worthy or not, may have to be restrained.

Public infrastructure *investment*, such as in the NHS, is vastly different from federal *spending*. The main purpose of investment is to expand the country's capacity to create wealth and raise living standards, which are *directly threatened by infrastructure under-investment*. The NHS is much more than just paying bills for current operations.

Only with an adequate surface transportation infrastructure can the nation sustain jobs, increase employment, provide for our defense and national welfare, and manage natural disasters.

IV. SUGGESTED ACTION

A. Act Quickly

On December 9, 1993, the United States Department of Transportation transmitted to Congress the 159,000-mile proposed National Highway System identifying 104 port facilities, 143 airports, 191 rail-truck terminals, 321 Amtrak stations and 319 transit terminals. ISTEA requires that the NHS and Interstate Maintenance funds not be released to the states if the system is not approved by Congress by September 30, 1995. This represents a potential loss of $13 billion collected from highway users but not made available for investment in the highways that generated the funds unless action is taken quickly.

We urge Congress to quickly approve the NHS by September 30, 1995 and remove the uncertainty associated with the timing of the National Highway System. The sooner the NHS is approved, the sooner we can target federal funds to the roads that are necessary for sustaining jobs, economic growth, mobility, and safety.

We are concerned that if Congress fails to enact the NHS this year, states and Metropolitan Planning Organizations will lose the certainty they need to plan and budget for needed improvements and deferred maintenance. Because of rigid planning requirements, states already have NHS projects in the planning phase. Failure to adopt the NHS would lead to chaos in state transportation departments as they work to start from scratch in their effort to plan for and fund needed projects. This would translate into millions of dollars lost to wasted effort.

B. Remain Focused

One good way to promote quick passage of the NHS is to remain focused clearly on the need for a National Highway System and not allow side issues to detract from that vision. We urge Congress to avoid policy changes such as expanding eligibility for NHS funding, mandating the suballocation of large portions of NHS dollars to local jurisdictions, or on a population basis, or creating new restrictions on a state's right to regulate the size and weight of trucks moving freight on roads about which they, not the federal government, know best.

Expanding eligibility to privately owned facilities, for example, will delay an already complex process by introducing yet another procedural hurdle into the already protracted and inefficient planning process. The result could be that even more time and money would be spent designing strategy and tactics instead of addressing acute physical infrastructure needs. This is exactly opposite to the concept of "streamlining" government.

Suballocating funds by formula to urbanized areas jeopardizes the entire concept of the word "national" in the National Highway System. Improvements to the system should not stop at the city boundary, where the funding will run out if such changes are enacted. Given the significant unmet needs of the NHS and the requirements to look at the weak links of the NHS on a system-wide basis, we should keep the statute the way it is in emphasizing roles for the state DOT's and MPO's.

Restricting size and weight limits is illogical. There has been no comprehensive study demonstrating that the trucks that might be disallowed are unsafe. The cost of transportation is reduced by using vehicles that operate safely and hold more. An arbitrary freeze on size and weight would leave the U.S. at a permanent disadvantage to Mexico and Canada, where the weights are higher. It would also prevent state efforts to use a modest weight increase to encourage additional axles - which reduce wear and improve safety. It would particularly devastate western-state economies, where these vehicles have operated safely and efficiently for decades.

What is more, economic projections show that freight tonnage will increase 30% by the year 2000. Additional trucks *will* be on the road. The economy will demand it. But *even more* could and will be needed if suddenly, five trucks are required to haul what was previously safely carried by four. Restrictions such as those above run completely counter to the goals of ISTEA.

The NHS is about promoting efficiency and economic growth - and about increasing safety and reducing congestion. It is about an investment opportunity necessary for the public's welfare. A clean NHS bill enhances the likelihood that these good intentions will become reality.

C. Failure to Adopt the NHS - America's Economic Future

The 40-year-old Eisenhower Interstate Program has given us a highway system better than any in the world. It is greatly responsible for the advantage we have over our competitors in the global marketplace. The NHS, the backbone of America's transportation system, is must-pass legislation *needed now* if we expect to get to work and preserve the economic leadership we have enjoyed for much of the last forty years.

Without a National Highway System, economic growth will be limited and jobs lost.

Jobs will flow from the middle of the country to the periphery, such as around our ports. This is because, without a seamless, well-connected highway system, it will be too expensive to locate new facilities and factories in rural areas, leaving the 72 million Americans living there with reduced job opportunities.

Furthermore, we will fail to capture the savings from safety improvements, and will lose thousands of lives unnecessarily, and the billions of dollars in future productivity and property losses that go with those lives.

V. CONCLUSION

In whole, the NHS is not about trucking. It is about investing scarce resources wisely and strategically. It is about having vital communities that work and a nation that offers opportunity. The NHS is about freight and personal mobility, quality of life, and the choices we must make to reach these goals.

The choices presented are clear. They are between a government which simply delivers austerity, or instead, one that advances and fosters prosperity. The choice is between *spending* and *investment*.

Cutting spending does save money.

Cut investment, and you short-change the future.

State of California—Business, Transportation and Housing Agency PETE WILSON, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
P. O. Box 942898
Sacramento, CA 94298-0001
(916) 657-7152
1-800-735-2929 (TT/TDD)
1-800-735-2922 (Voice)

March 29, 1995

File No.: 5.A10036.

The Honorable John H. Chafee
United States Senate
Washington, D. C. 20510

Dear Senator Chafee:

Governor Pete Wilson has asked me to respond to your request for information regarding mandatory safety belt and helmet use laws. On January 1, 1993, Governor Wilson signed legislation making mandatory seat belt usage a primary law. California became the first state in the nation to change from a secondary to a primary safety belt law, and the eleventh state to authorize peace officers to stop and cite vehicle occupants solely for not wearing safety belts on public roadways.

This change in the safety belt law from secondary to primary has resulted in a new era in traffic safety in California. Since the secondary safety belt law went into effect in January 1986 California's traffic fatalities have been declining at a steady pace. In 1987, fatalities in the state had peaked at a high of 5,500 and the mileage death rate (MDR - the number of deaths per 100 million miles of travel) was 2.6. When Governor Wilson signed the primary safety belt law in 1992, the MDR was 1.6. The 1994 provisional fatality total was 4,177 and the MDR was 1.56. California's safety belt requirement and the steady climb in safety belt use (from 25 percent in 1986 to 83.7 percent in 1994) matches the drop in fatalities (see enclosed chart).

The steady decline in the mileage death rate can also be attributed to the 98.5 percent helmet law compliance rate. California's motorcycle helmet law is accomplishing what it was intended to do when Governor Wilson signed it into law two years ago. It is saving lives and taxpayer dollars by significantly reducing tragic incidents involving motorcycles.

Since the helmet law went into effect on January 1, 1992, the number of motorcyclists killed per 100 motorcycle collisions has dropped significantly--from 2.8 to 2.4. The total number of victims killed has dropped from 326 in 1992 to 303 in 1993. The provisional count for 1994 is lower yet--282. Total motorcycle injuries in California also dropped from 12,195 in 1992 to 10,919 in 1993. Our statewide California Motorcyclist Safety Program (CMSP) has trained over 73,000 motorcyclists in eight years of operation and has also contributed significantly to these

reductions. This is quite an accomplishment when you consider that the number of motorcyclists has remained the same.

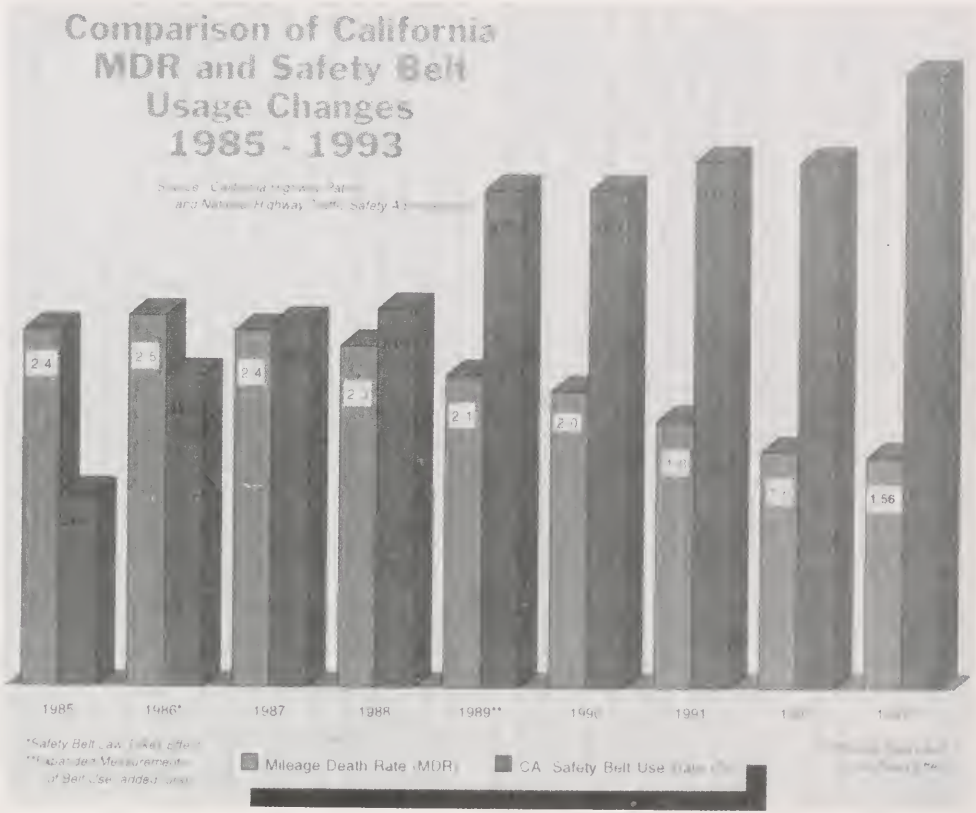
Mandatory use of safety belts and motorcycle helmets continues to save California's taxpayers millions of dollars by minimizing the costs of medical services resulting from serious and fatal injuries suffered in collisions. It is estimated that California's mandatory motorcycle helmet law may be credited with saving 92 lives and $86 million in lost productivity in 1992. Governor Wilson signed the primary safety belt legislation in 1993 and the mandatory helmet law in 1992 with the understanding and belief that these measures would save lives, reduce pain and suffering to victims and their families, and impose only a minimal burden on motorists and their passengers.

The California experience demonstrates the societal and personal value of mandatory safety belt and helmet use laws. If any state is interested in learning more about California's helmet and safety belt laws, please call me at (916) 657-7152.

Sincerely,

M. J. HANNIGAN
Commissioner

Enclosure


Comparison of California
MDR and Safety Belt
Usage Changes
1985 - 1993
2.4
2.5
2.4
2.1
2.1
2.0
1.56
1985
1986*
1987
1988
1989**
1991
Mileage Death Rate (MDR)

American Red Cross

National Headquarters
Washington, DC 20006

April 6, 1995

The Honorable John H. Chafee
Chairman
Committee on Environment and Public Works
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to express the support of the American Red Cross for continued highway safety measures to protect the health and well being of Americans. The American Red Cross has provided health and safety services to communities across the nation for more than 80 years, as a part of the organization's mission of emergency prevention and preparedness. The goal of Red Cross courses is to teach people not only how to respond to injuries, but also how to prevent them. Our ability to prevent injuries is greatly enhanced by federal highway safety policies.

The American Red Cross opposes elimination of Section 153, the program that encourages states to enact safety belt and all rider motorcycle helmet laws. Section 153 was created in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to reduce deaths and prevent debilitating motor vehicle injuries.

We believe that health and safety statistics confirm the value of these protections. For example, each year safety belt, child restraint and motor cycle helmet laws save nearly 10,000 lives and prevent 170,000 injuries at a savings to taxpayers of more than $17 billion. More than 40,000 people die and millions are injured each year on our highways. Motor vehicle crashes remain a major public health problem. They are the leading cause of death for Americans ages five to 32 and the leading cause of injury for all age groups.

Section 153 and other related highway safety provisions are vital injury prevention measures supported by thousands of state and national health, consumer, and business organizations. Please oppose efforts to repeal or weaken them.

Sincerely

Fred Gervasi
General Manager
Public Policy and Planning

State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903-1196
401-277-2080

LINCOLN ALMOND
GOVERNOR

March 30, 1995

The Honorable John H. Chafee
Chairman
Senate Environment and Public Works Committee
Washington, DC 20510

Dear John:

Thank you for the opportunity to write you in support of your efforts to encourage states to pass mandatory motorcycle helmet laws. As you know, Rhode Island has only minor helmet laws. I have made passage of a helmet law which would mandate that all riders use helmets as one of my legislative initiatives.

Each year, 15 motorcyclists are killed on Rhode Island roads. Fatalities, however, tell only part of the story. At least 115 people are hospitalized annually in Rhode Island due to motorcycling injuries. In 1992, the average charge for motorcycle related hospitalizations involving head injuries was 65% more than for other injuries. Note that statewide one-third of the injured motorcyclists had no health insurance.

While helmets will not prevent all motorcycling injuries, they have been demonstrated to effectively protect rider's heads, thereby preventing the most devastating injuries. Mandatory use laws are extremely effective in increasing helmet use. The State of California, for example, found that motorcycle helmet use increased from 50% in 1991 to 99% following enactment in January, 1992 of a mandatory law. A study reported in the *Journal of the American Medical Association* (November, 1994) found that this increase in use correlated to a one-third decrease in deaths and head injuries.

Arguments against motorcycle helmet laws center around personal freedom issues. However, the rights of the public also must be weighed. Cost containment of the health care system is a major concern for this country. Passing a motorcycle helmet law in Rhode Island will save lives and reduce unnecessary health care expenditures.

I wish you the best in your continued work at the federal level. We shall persevere to pass a mandatory helmet law here at in our home state.

Sincerely,

Lincoln Almond

LA:cam

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

THURSDAY, APRIL 6, 1995

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

WOODROW WILSON BRIDGE MAINTENANCE AND INTERSTATE HIGHWAY FINANCING

The subcommittee met, pursuant to recess, at 10:03 a.m. in room 406, Dirksen Senate Office Building, Honorable John W. Warner (chairman of the subcommittee) presiding.

Present: Senators Warner, Faircloth, Chafee [ex officio] and Baucus.

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINA

Senator WARNER. Good morning, everybody.

The purpose of our hearing today is to continue the subcommittee's discussions on designating the National Highway System and to receive testimony on the Federal Highway Administration's Innovative Financing Program.

The provisions in ISTEA, which I fully support, tasked the Federal Highway Administration to develop strategies which would bring private sector financing to transportation projects—historically a public sector undertaking.

In recent years, it has become increasingly clear that today's transportation funding challenges are more diverse and complex. In the past, the demands on our transportation sector were straightforward: to design and construct the Interstate Highway System.

We know that traditional government sources, both at the Federal and State level, simply cannot provide sufficient funds in the limited time required to meet current transportation needs, particularly for larger projects. New approaches and financing mechanisms must be developed to use Federal transportation dollars more effectively and to stimulate the investment of other revenues.

I know that this challenge is shared by our partners in transportation at the State and local level. They know first-hand of the demand to provide immediate solutions to capacity limitations, maintenance delays, and other problems.

The hearing today will also focus on the future financing needs of the federally owned Woodrow Wilson Memorial Bridge on the

Capital Beltway south of Washington, DC. On Tuesday, I introduced S. 668 to establish the National Capital Region Interstate Transportation Authority. This bill creates one entity to devote its full time and attention to facilitating the construction of a replacement bridge, or a bridge and tunnel project, for this aging facility.

For the benefit of my colleagues and those in the audience today, it is important that we acknowledge that the Federal Government constructed the bridge in 1954 and remains responsible for the needs for the existing facility and the planning and financing needed for a new facility.

Today the Woodrow Wilson Memorial Bridge is the only segment of the 44,000 mile Interstate System that is owned by the Federal Government. The bridge was designed 40 years ago to carry 75,000 vehicles per day, but now carries 165,000 vehicles per day, 11 percent of which is heavy truck traffic. The bridge is the only drawbridge on the regional interstate network, the only piece of the region's 8-lane Capital Beltway that is limited to 6 lanes and the only segment of the Capital Beltway with a remaining life span of less than 10 years.

The Federal Highway Administration confirms that this aging bridge is deteriorating rapidly. Annual repairs of over $5 million fail to extend the useful life of the bridge and are no longer cost-effective. Simply put, rehabilitating the existing bridge is a waste of limited funds. We must move forward with constructing a new facility that can handle the additional capacity which is now gridlocked at the bridge at almost any time of the day.

That is why I have introduced legislation to create a regional authority to work with the Federal Highway Administration. Under my legislation, the Authority will assume ownership of the existing facility, once the States, District of Columbia, and the Department of Transportation reach agreement on the level of Federal responsibility for the new facility.

The Federal Highway Administration must complete its work on identifying a replace facility that meets the Federal requirements and is responsive to the views of the local governments. The Authority will provide the next critical step in these tight fiscal times, a financing mechanism which will provide the means necessary to finance, operate, and maintain a new river crossing.

Legislation at the State level concerning the Authority has passed the Virginia General Assembly and has been signed into law by Governor Allen. In Maryland and the District of Columbia, the bill is proceeding. On April 3, Maryland Governor Glendening wrote to members of the Maryland General Assembly in support of the Authority by stating:

> The creation of a Woodrow Wilson Bridge and Tunnel Authority is urgently needed and is a priority of my administration. We support efforts to craft a new regional authority that includes all three regional jurisdictions: Maryland, Virginia, and the District of Columbia. It is of great importance, however, that an Authority be created and in place at the earliest time practicable in order to address the transportation concerns all our political jurisdictions share.

Thank you.

Senator WARNER. Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you very much, Mr. Chairman.

I thank you for holding this hearing. There is a need certainly with respect to the Wilson Bridge, and also we need more creative financing. I think there is also another very important side of the dilemma.

We need to live within our means. Certainly as a result of the last election, it is important that the Federal Government lives within its means. Second, we have to invest in areas like transportation that will make our economy competitive. I think this hearing implies the answer—we have to be more creative about financing transportation projects.

An efficient transportation system makes us more mobile and globally competitive. It means Montana stock growers can keep up with the Australians and the Argentines. I believe, Mr. Chairman, that if we make no changes, we will leave ourselves with a deteriorating transportation system.

While cutting costs, the Federal Government has to help all States to maintain and improve their transportation systems. Part of that is making sure that we do not get in the way of new, smart, creative financing options so that States can do a better job and more easily meet their needs.

Through the 1991 Highway bill, we made sure that States got the flexibility to decide which roads and which projects would receive their Federal highway money. That is working. But no matter how well it works, the money will fall far below the $50 billion a year that the Transportation Department believes we need to maintain our roads and bridges.

So we now must find ways to give States flexibility in financing the projects that Federal money can't pay for. Last year, I had a bill to do that by letting States use their highway funds to set up such things as State transportation revolving loan funds, credit enhancement, and interest rate subsidies so that the Federal funds could be used not only for straight construction but as leverage to raise much larger sums from the capital markets.

Each State will find different ways to raise money. We can't have a one-size-fits-all approach. What works in New York, for example, will probably not work in Montana. For example, it could be a long time before Montana want to see a toll road within its borders.

I am very pleased to see the Department's interest in this. I congratulate the Department of its innovative financing test and evaluation project. Secretary Peña, Rodney Slater, and Jane Garvey identified a variety of projects around the country that will benefit from innovative financing.

I am very optimistic on this subject and I look forward to hearing from our witnesses today.

Thank you, Mr. Chairman.

Senator WARNER. Thank you, Senator Baucus.

Senator Faircloth.

OPENING STATEMENT OF HON. LAUCH FAIRCLOTH, U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator FAIRCLOTH. Thank you, Mr. Chairman.

I really just came to hear this morning and listen to what is going on. I was interested in the Woodrow Wilson Bridge. I guess true age is telling on me. I thought of it as being a pretty new bridge and 1954 as not long ago and realized it has been 40 years. But I spent a lot of 8 years in the highway department of North Carolina off and on and I will just be interested in what Ms. Garvey has to say.

Senator WARNER. Thank you very much, Senator.

We welcome you. This is your second appearance before this committee. Deputy Administrator, Federal Highway Administration, Jane Garvey.

STATEMENT OF JANE GARVEY, DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION

Ms. GARVEY. Thank you very much, Mr. Chairman and members of the committee.

I want to thank you for the opportunity to be here as this committee completes it hearings on the National Highway System. And I also want to stress, on behalf of Secretary Peña and Rodney Slater, our deep appreciation of the work that you are doing on the National Highway System. It has been and remains one of our top priorities. We very much appreciate all your efforts on its behalf.

Senator WARNER. If I could interject, subject to consultation with my distinguished ranking member and other members of this committee, I would hope we would begin a markup session shortly after the Senate returns.

Ms. GARVEY. That is very good news, Mr. Chairman, very good news indeed.

I am also delighted to be here to talk about the efforts of DOT to develop some new financing tools which may prove useful in addressing the needs on our Nation's transportation system within this country and to talk specifically about the Woodrow Wilson Bridge.

Without question, the ISTEA, which this committee played such a significant role in shaping, has helped spark our thinking about innovative finance and ways to creatively stretch our transportation dollars. We are mindful of Senator Baucus' strong interest in providing greater flexibility to States to fund transportation projects, and we very much recognize the groundwork he laid in the previous Congress with the State Transportation Financing Improvement Act. I might add that we built on those lessons and submitted State infrastructure banks as part of our budget. We very much look forward to working with this committee to further this initiative.

I would like to begin by speaking very briefly about the Woodrow Wilson Bridge and then turn to some of the financing issues. In my written testimony, I have discussed in some detail the condition of the bridge, the factors that led to the bridge's deterioration, and the proactive that we at the Department have already taken to approach some potential solutions to problems with the structure. I would, however, like to highlight some of our concerns.

In a May 1994 report, engineers determined that the bridge was in fair structural condition with problems common to a structure of its age. But they also determined, as you indicated, Mr. Chair-

man, that it would not be cost-effective to continue to rehabilitate the bridge beyond 2003 because repair costs would rise dramatically and the reliability and safety of the bridge could potentially be compromised. They also predicted that intolerable traffic, safety, and air quality impacts would result if the bridge were closed for extensive periods to rehabilitate the structure. With those facts serving as a framework, the engineers recommended the complete replacement of the bridge.

In 1988, FHwA initiated the Woodrow Wilson Bridge Improvement Study to examine capacity and expansion options. It was more than just an internal FHwA study group. The improvement study also included representatives from the District, Maryland, and Virginia. The group's initial project was a concept competition to develop possible alternatives to the existing structure. We prepared a draft EIS, and after several scoping sessions a no-build and six other design alternatives were identified.

We held alternatives workshops and public hearings in 1991 in Maryland and Virginia to address comments and concerns. But I must say that opposition arose to key aspects of the alternatives outlined in our draft EIS.

To resolve the impasse—which is very important for us to do—FHwA invited area transportation officials and elected representatives to serve on a new Coordination Committee. The mission of that committee was to identify a solution which enhances mobility while assuring that the community and environmental concerns are addressed.

Last fall, the Coordination Committee selected 17 crossing options, based in large part on citizen ideas and input. After further analysis, they narrowed the alternatives down to eight possible crossings. The crossings include eight through lanes, two HOV lanes, and two merging and safety lanes. The eight options include a tunnel-only option, three different combinations of bridge and tunnel structures, a drawbridge along the alignment of the current bridge, a high level fixed bridge south of the current bridge, a double-decked bridge along the current alignment, and a no-build option.

As part of all these alternatives, we are studying various transportation system management and transportation demand management strategies such as car pooling, congestion pricing, and telecommuting. Short-term transit options are being looked at that can be put into place very quickly as well as long-term transit solutions. I think there is a real recognition on the part of this committee and the coalition that really solving the transportation problems in this area are going to take a number of options.

It is anticipated that the public input process initiated by the committee will reveal a preferred alternative as early as this fall. Work on a supplement draft EIS also continues and is scheduled to be completed in September.

The Interstate Study Commission established by ISTEA we know recommends new ways to manage the National Capital Region's interstate highways and bridges and has recently issued its report. We know that its chairman is here to share some of those findings with the committee today.

We are aware of the ISC's recommendation of the establishment of an independent authority to own, construct, operate, and maintain a new Potomac River crossing. We also know that the ISC recommends that this authority have the power to issue bonds and collect tolls, but not to levy taxes. The ISC expressly advised that the authority not be activated until Federal funding for the construction was secured.

We also recognize, Mr. Chairman, that if the States choose not to accept ownership of the existing bridge, through an authority or other means, the Federal Government must be prepared to act. Assuming adequate Federal funding to complete the work, we anticipate that the environmental work will be finished and a preferred alternative identified on schedule. That is very important to us, to keep it on schedule.

We also want to stress that FHwA will continue to take all the steps necessary to ensure that the structure remains safe.

Let me change subjects now, because of your interest in innovative financing techniques. I would like to touch just briefly on how those techniques might help in solving the problem of the Woodrow Wilson Bridge.

Senator WARNER. Before you shift, I would like to confirm in your testimony—for fear that the States will decide to sit back and do nothing on the bridge and that Uncle Sam will eventually take charge—one of your options is to extend the life by reducing the volume of traffic, particularly that of trucks.

Ms. GARVEY. That's right.

Senator WARNER. Which would impair greatly and denigrate the current service of the bridge.

Ms. GARVEY. That's right, Mr. Chairman.

Senator WARNER. So really, while you list that as an option, it is not an option.

Ms. GARVEY. That's right.

In order to carry out an element of Secretary Peña's strategic plan for the Department, in May 1994 Administrator Slater established innovative financing as a test and evaluation project. We really sought to build on the financial options made available in ISTEA. We sought to identify where changes are needed—if they are needed—particularly in the area of policy, practice, or regulation and legislation. What we really wanted to do was conduct our research in the real world, attached to real projects rather than a study that just took place here in Washington, DC.

So we asked the States for their best ideas as to how to make the Federal dollar go further through leveraging and how we might work with them to accelerate the project construction. The response we felt was overwhelming, and frankly more than we had anticipated. In less than 6 weeks, we received over 60 proposals from about 29 States. I might add that those proposals are still coming in.

Early this year, Secretary Peña announced the results of this initiative, the partnership for transportation. The first round consists of over $2 billion in projects that have been developed not as a result of adding funds—and I think that is important to note—but rather leveraging the use of existing funds. In most cases, a num-

ber of these projects moved into construction sooner than they would have had we not employed some of these techniques.

I would like to just briefly mention some of the States that took advantage of the initiative and what they proposed. Ohio, for example, suggested improvements to some very important highways within their boundary by creating a transportation improvement district from which a variety of future revenue sources are pledged at the State and local levels to pay for bond-financed improvements. Ohio, then, can spread its Federal-aid funds committed to the project over a number of years in response to variable future revenue sources. In this case, it will include tolls.

Similarly, Vermont has for over a decade planned the construction of a bypass near Burlington which will now be supported in part by future apportionments without creating a burden on Vermont's State-wide program today.

South Carolina solicited proposals under a public/private partnership initiative to finance and build a new highway under which the voters in that county will decide the blend of toll, sales tax, and hotel tax revenues that will be pledged to bond payment. That is really in the hands of the voters in South Carolina, as it should be.

The Federal Highway Administration is working with each one of these States to ensure that the project is financially feasible and has a funding structure that maximizes the State's flexibility.

In New York, a program called MINI-TECH provides for the application of Intelligent Transportation System (ITS) technology at some of the very important border crossings in the Buffalo area. With innovative financing, FHwA is helping New York establish a revolving loan fund seeded with Federal funds. This project also supports increased trade under NAFTA. It will bring on-line the latest in transportation technology and will bring together United States and Canadian agencies in a partnering agreement. Revenues from cross-border bridge crossings will help finance the revolving loan fund that can fund other transportation projects in the corridor. That has been an important concept for them.

A similar financing structure was approved in Texas between Texas DOT, the Texas Turnpike Authority, and the city of Laredo to finance an additional crossing to Mexico.

So based on this initiative, we think there are some options that may be worth considering in financing the reconstruction of the Woodrow Wilson Bridge. I might add that these are only some of the options and there will be others as this initiative continues.

First, creating an authority by interstate compact with the three jurisdictions: Maryland, Virginia, and the District of Columbia being the principal members. This authority would be empowered to issue bonds to develop a source of financing for the new facility. Costs would be paid by fees collected for use of the facility.

Second, leasing the facility to either a public-private partnership or private entity which would be empowered to collect fees and finance construction in the private market. This approach could be combined with State financing techniques as well.

Third, transferring the bridge to a non-Federal authority with the Federal Government providing financing through credit reform procedures through the Treasury. This might be something that would make the most sense just through construction.

Finally, transferring the facility to an authority with the Federal Government contributing up to the cost of replacement of the facility as it exists today, with the authority financing any enhancements through borrowing using options we have discussed in the innovative financing.

After the new bridge has been paid for, ownership could be transferred to the District and the States or left in the hands of the Authority.

As our study and outreach continue, other options will likely emerge that can be added to the list. I think we are learning, as you both indicated, the important idea is to be flexible, to look at new techniques, and to be willing to explore some new options. We believe that by working with the Congress, by building on the experiences of the partnership for transportation initiative, we believe that the replacement of the Woodrow Wilson Bridge can be financed with a negligible effect on both the State and Federal budgets.

We look forward to working with this committee to find an appropriate solution for the Woodrow Wilson Bridge, such as Senator Warner's bill, and also to developing an array of innovative financing techniques that can be used not only on this project but that can be used nationwide.

Thank you very much. I would be pleased to answer any questions you may have.

Senator WARNER. Thank you very much, Madame Administrator.

Back to the bridge again, has the Department's thinking progressed to the point of the Federal share of this new bridge, formula-wise?

Ms. GARVEY. I think that is always a difficult question because we are not quite sure yet what the cost will be. But some of the discussion at the Department has indicated, for example, if we were to replace this bridge in kind, just as it is, that it would cost about $250 million to $300 million. That could potentially be the baseline.

Senator WARNER. That is interesting. I have seen estimates from $500 million to $1 billion.

Ms. GARVEY. I think if you're talking about a full replacement—we are talking about an in-kind replacement with only the six lanes. These costs therefore are lower than the costs for the expanded facility.

Senator WARNER. You mean to replicate what is there today?

Ms. GARVEY. Yes, Mr. Chairman, if you were to stay with exactly what is there today.

I will add, though—and we have had great discussion on this both internally and with the Commission as well—that if you replace it in kind with just the six lanes, you are really not solving the transportation problem. You are absolutely right that in order—

Senator WARNER. In good judgment, you wouldn't do that because your original design was for 75,000 vehicles. There is no sense in building another bridge to take 75,000 when you are up to 165,000 and probably with some potential growth with that figure.

Ms. GARVEY. That's right. So to really solve the problem you need to replace it with something that has additional capacity.

Senator WARNER. What are your estimates for that bridge?

Ms. GARVEY. On that one, as you have indicated, it is much, much higher. It is closer to $1.2 billion. We have seen some figures that are even up to as high as $2 billion.

Senator WARNER. It would appear to me that a toll is essential with this project.

Ms. GARVEY. I would certainly say that each of the options we have discussed here this morning would include a toll. That certainly does seem to be one of the most viable ways to finance this bridge, particularly in the context of the limited resources, not only at the Federal level but at the State level as well.

Senator WARNER. I think it would be appropriate at this time for you to give your views on the current and project safety of the bridge for this period of time between now and when the replacement bridge is in place.

Ms. GARVEY. That is a very important issue. As you have indicated and as members of the committee have indicated, this is a bridge that has been around for a long time.

Senator WARNER. Well, my colleague wasn't sure it was a long time.

[Laughter.]

Ms. GARVEY. But it is a bridge that has reached the end of its useful life cycle. So monitoring the safety of the bridge is something that we take very seriously.

The engineers are looking at it really on a very regular basis. The last inspection was in October 1994. I want to assure the committee that it is safe, but that we are watching it very carefully with our colleagues at the State level and in the District of Columbia as well.

But again, it is safe. We are monitoring it. But it is certainly a cause for some concern. That is why we are very eager to keep this project on schedule. We are very eager for the environmental work to proceed, but also to come to some conclusion. There is a sense of a problem that needs to be solved.

Senator WARNER. In the planning for the new bridge, I hope great emphasis is put on the environmental aspects because this bridge is located in some really scenic and historic areas in both Maryland and Virginia.

Ms. GARVEY. Some very beautiful areas.

Senator WARNER. There is a considerable amount of private residential apartments and other dwellings in the immediate vicinity and noise is a major factor as well as the associated pollution.

I suppose a tunnel is out of the question. Has anybody looked at that?

Ms. GARVEY. A tunnel is one of the options that is on the table.

Senator WARNER. I rarely see it mentioned, though.

Ms. GARVEY. It does seem that some of the other options are more publicly discussed. But it is still on the table. We will see what the committee and public process recommend in the fall. It is an interesting option.

Senator WARNER. I assume that navigation requirements of the river would necessitate another draw-type span, unless you achieve

a certain amount of elevation in a compromise as to the height of the vessels that can transit that area.

Ms. GARVEY. You are correct, Mr. Chairman. I would just mention that in my own home State that was always an issue. We had a bridge where we had some serious navigation issues. Frankly, in order to allow for the vessels to proceed, we would have had to build the structure so high that it created some real environmental as well as engineering problems. We opted to stay with the draw bridge. So that is a critical issue.

Senator WARNER. Thank you.

Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

Ms. Garvey, how many of the so-called pilot projects you are pursuing with creative innovative financing can you approve administratively? On the other hand, how many others that you think States might want need legislation?

Ms. GARVEY. That is a very good question.

There are a number of States—and certainly Laredo, TX, is one that I cited—where if there were a State infrastructure bank in place, that would have been an easier project to advance more quickly. So that is one.

We have a number—I would say about 10 or so that immediately come to mind—where with a State infrastructure bank the projects would have advanced even sooner.

In addition, we are finding that there are a number of large projects—intermodal projects, for example, projects that don't neatly fit into a State-wide program—that might very well benefit from a State infrastructure bank.

I thought your point earlier, though, was well taken. What works in one State may not work in another. We haven't found any silver bullet for all the problems, but we see this as just one more option to offer States to help solve some of the problems they are having.

Senator BAUCUS. Will you be submitting recommendations to the Congress?

Ms. GARVEY. We would like to work with the committee on that, yes.

Senator BAUCUS. On what is needed to give the Department more flexibility and the State more flexibility?

Ms. GARVEY. Yes, exactly.

We have and are still working on refining this. There are about nine or six concepts that we think may need some legislative help.

Senator BAUCUS. When might you make that submission?

Ms. GARVEY. Within the next couple of weeks. In fact, we would like to begin working with the committee as soon as next week.

Senator BAUCUS. I would like you to address the transportation enhancement projects. They are very popular in many parts of the country—in my State of Montana, bike paths, walkways, historic preservation, etc. Some of them are pretty small in dollar amount, but the paperwork requirements overwhelm. In fact, they cost more than the actual enhancement.

What can you do about that? How many of those enhancement requirements the Department now requires can be waived administratively?

Ms. GARVEY. We are actually just preparing a report for Secretary Peña that addresses just that issue. We are prepared to make some administrative changes to transportation enhancement program that we believe will minimize significantly the paperwork associated with it.

Frankly, we have gotten some of the best suggestions from the States and some of the private entities that have put transportation enhancement in place. I think before the first of May we will see some significant changes in that area to minimize the paperwork.

You are right. They are among the most popular projects that we have had.

Senator BAUCUS. Are you also going to submit to Congress recommendations with respect to legislative changes for additional transportation enhancement flexibility?

Ms. GARVEY. One of the concepts we have looked at is the concept of substituting private dollars for State dollars. Transportation enhancement is a very good candidate for that. That is one of the recommendations we would like to discuss with your staff.

Senator BAUCUS. So you will be making that submission?

Ms. GARVEY. Yes, sir.

Senator BAUCUS. As you know, ISTEA allows States to make loans to projects constructing toll facilities, primarily, with payment coming from tolls. This approach doesn't work in every State.

As you know, in the bill I introduced previously we would allow States to make loans to any project—whether financed by tolls or not—that has a dedicated revenue source to repay the loan. That can come from a petroleum business tax or a money depletion tax or tax increment financing or development impact fees or whatnot. I would like you to comment on legislation that would give States that additional flexibility.

Ms. GARVEY. Certainly the lessons we have learned through innovative financing support your point that what States really need is the flexibility to identify a dedicated revenue stream. It doesn't necessarily have to be tolls. Again, it might be a combination of tolls, dedicated gas tax, or any other options that are available to States. We are looking at some changes that would include other revenue streams in addition to just tolls. We found that that was perhaps too restrictive. Our interpretation may have been too restrictive.

Senator BAUCUS. Do you agree that an approach like this should be at the discretion of the States?

Ms. GARVEY. Yes. I will say that we started, for example, thinking of State infrastructure banks as mandatory, but we have shifted our view based on what we have heard not only from Congress but from the States and localities as well.

Senator BAUCUS. Is the State infrastructure bank essentially the same as a revolving loan fund? What is the difference?

Ms. GARVEY. There is a slight difference. The revolving loan fund is the simple sort of direct loan to a project that gets paid back. The infrastructure bank, as a leverage program—we really would be providing both options—but the leverage program, which would allow the Federal dollars to capitalize on grants, will give an additional leveraging ability to the States.

Frankly, in order to get States to set up a leveraging program, we think we have a lot of work to do to create some incentives. We are working very hard with Treasury right now to look at incentives that may encourage States to go the leveraging route.

Senator BAUCUS. And what might some of those incentives be?

Ms. GARVEY. Some of the tax relief that we have begun talking with Treasury about might be one. Lifting a State match entirely might be another. Thinking about treating the dollar as a non-Federal dollar might be another. There are a number of options that States have suggested. We are beginning those discussions.

Senator BAUCUS. Has the Department come up with any general, rough estimate as to how many more dollars could possibly be available for actual construction if all these innovative techniques were available?

Ms. GARVEY. I think we have talked about a 25 percent increase, but that may be a little bit high.

Mr. BASSO. Mr. Chairman—

Senator WARNER. Would you identify yourself, please?

Mr. BASSO. Sure. I am Peter Basso, the director of fiscal services at the Federal Highway Administration.

We have talked about a leverage of as small as two to one, and in some cases four to one. But we think realistically that two to one is the floor and we hope to get some additional growth.

Senator BAUCUS. So you are thinking it could then double?

Mr. BASSO. Yes, sir, at a minimum.

Senator BAUCUS. That is very encouraging. Thank you very much.

Ms. GARVEY. I might also say that one of the lessons we learned from the innovative financing is that there is a great deal of flexibility in ISTEA, and in some ways States have really gotten very familiar with the program flexibility, but the financing options are perhaps newer concepts to us. This last year's effort has been very helpful. But also, frankly, there is a great deal in ISTEA that has given us flexibility.

Senator BAUCUS. That is very important because doubling also means doubling of jobs, in addition to doubling of highway or other infrastructure construction. I urge you to vigorously pursue it.

Ms. GARVEY. Thank you very much.

Senator BAUCUS. Thank you, Mr. Chairman.

Senator WARNER. Thank you, Senator Baucus.

Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

And thank you, Ms. Garvey.

I was interested in the bridge, but just as an opening comment on the highway fund, State and Federal social planners stay perched ready to take the money from the highway fund for every conceivable project they can think of. That has gone on in the Federal Bureau of Public Roads—I don't know what you call it now—and also in the State highway. They are always wanting something to take the highway money. We set up in North Carolina a distinct and separate highway fund and budget and it worked very well.

Mr. Chairman, I don't believe in toll roads. We will go with this one toll if you want, but I do not—

Senator WARNER. I don't want this bridge to be named for me as a toll road.

[Laughter.]

Senator WARNER. But practically speaking, as I looked at this for some years—

Senator FAIRCLOTH. Mr. Chairman, I found out a long time ago, with your name on a highway and 75 cents you can buy a cool drink in most filling stations.

[Laughter.]

Senator WARNER. That's true.

I think the distinguished witness should know that this fine Senator had many years of experience, first-hand in building roads in his State.

Senator FAIRCLOTH. Is this a bascule or vertical lift bridge? Do you know?

Mr. GORDON. Bascule.

Senator WARNER. Please identify yourself.

Mr. GORDON. Stan Gordon, Chief of the Bridge Division.

Senator FAIRCLOTH. What are the Corps' requirements? Would it be a mid-level or high-level bridge?

Mr. GORDON. Fixed span would be high-level.

Senator FAIRCLOTH. It doesn't seem to me—you are talking about the cost of building the bridge. I can't conceive of any ships coming through that channel that require 125 or 135 mean high tide clearance. It would appear to me that you could work with the Corps to reduce it to a mid-level requirement of 65 or even alter it to a 70-foot mean high tide clearance and you would cut the cost an astronomical amount, plus you would get rid of the environmental problems plus the encroachment problems with the neighborhood and the people in the area.

What is the possibility of the Corps lowering the requirements and restricting shipping into that area?

Mr. GORDON. That is definitely a consideration to go to a mid-level bridge whereby the number of openings are reduced.

Senator FAIRCLOTH. Are you talking about a mid-level with a vertical lift in it?

Mr. GORDON. Yes, either a vertical lift or bascule.

Senator FAIRCLOTH. What comes up there that requires 125 to 135 feet? What is the shipping schedule there?

Mr. GORDON. We have 150 sailboats, 32 freighters—

Senator FAIRCLOTH. So we are talking about sailboats—pleasure craft. Is there any real commercial craft coming up there?

Mr. GORDON. You have the freighters that come into the Robinson Terminal. There are 32 of those.

Senator WARNER. How often? Essentially what we are trying to determine are the tradeoffs between putting in a permanent structure, which structure would accommodate some modicum of shipping but avoiding the tremendous cost associated with the draw features as well as the congestion and traffic inconvenience.

Mr. GENDELL. Mr. Chairman, I am David Gendell, regional administrator for Federal Highway Administration in Baltimore and chairman of the Coordinating Committee.

The current bridge has a 50-foot vertical clearance. The data Mr. Gordon had been giving you refers to openings in the past year of a bridge with a 50-foot vertical clearance.

The prime users of the current structure who cannot be accommodated by a fixed bridge at the 70-foot level would be roughly 16 cargo ships per year that go to the Robinson Terminal in Alexandria.

Senator FAIRCLOTH. That would be 16 cargo ships a year, and we are talking about $1 billion and maybe $2 billion to build a 130-foot high level bridge with approaches 2 miles out?

Mr. GENDELL. If I might continue, there are also tall ships, such as the Coast Guard cutter Eagle, and ships from other countries that would require a greater clearance as well as a limited number of pleasure sailboats.

As far as the costs go, we do not find a substantial difference between a bridge at the 70-foot clearance level in the vicinity of the existing alignment and a bridge with 135-foot clearance.

Senator FAIRCLOTH. You say you can't find significant difference in cost between a bridge with a 70-foot clearance and one with 135?

Mr. GENDELL. They are in the same—

Senator FAIRCLOTH. Just the approaches—but besides the environmental to contiguous property.

Mr. GENDELL. We cannot find a way of building a high-level bridge on the existing alignment so that the option we are looking at today for a high-level bridge would have to be in a southern alignment approximately 2,000 feet south of the existing bridge. That does result in a longer bridge and does result in increased construction costs. But it also reduces the impact on the built-up environment.

Senator FAIRCLOTH. If you build the bridge in the same spot, you have to build a temporary bridge anyway. So usually you are about as well off to relocate and use the old bridge while you are building the new one. That is pretty much of a face-off.

Mr. GENDELL. Yes, sir, we would plan to do that in the construction if the alternative that is picked uses the existing alignment. We do not have final numbers yet, but I think you are correct that a high-level bridge in a southern alignment, where you can make the grades, would be more costly than a fixed bridge on the existing alignment.

Senator FAIRCLOTH. I think we need to look at the Corps of Engineers restricting the height of vessels that go through there. There is no prerogative that anybody with a 120-foot mast on his sailboat has to be able to sail up the Potomac.

Senator WARNER. Fortunately, the Congress won't design the bridge. But let's hope that those who are working on the design, communicating with the city government of Alexandria and States and so forth, can come up with a compromise which will be acceptable by the Congress.

Ms. GARVEY. Mr. Chairman, I might just add that I appreciate the Senator's comments. We certainly recognize and the point is well taken that keeping the cost down while protecting the essential shipping and navigation. The point is well taken and we will continue to have that high on our list.

Senator WARNER. Thank you very much, Madame Administrator. I thank your two associates.

We will now proceed to the next panel. Thank you.

Senator WARNER. The next panel is Mr. Jack Herrity, chairman, the Interstate Study Commission; Ms. Ann Stern, chairman and chief executive officer, Financial Guaranty Insurance Corporation; Mr. Ralph Stanley, senior vice president, United Infrastructure; and Mr. Daniel V. Flanagan, chairman, Commission to Promote Investment in America's Infrastructure.

Mr. Flanagan, why don't you lead off?

STATEMENT OF DANIEL V. FLANAGAN, CHAIRMAN, COMMISSION TO PROMOTE INVESTMENT IN AMERICA'S INFRASTRUCTURE

Mr. FLANAGAN. Thank you, Mr. Chairman.

Members of the subcommittee, it is an honor to have been invited to testify before you today, along with my colleague from our commission, Ralph Stanley.

Senator WARNER. A reflection of all the work you have done in this area.

Mr. FLANAGAN. Thank you, sir.

As chairman of the Infrastructure Investment Commission that was part of the ISTEA legislation in 1991, and also interestingly enough as the Construction Writers Association of America's 1993 Construction Man of the Year for the innovative recommendations of our Commission, I am delighted to be here recognizing your interests in alternative financing techniques for infrastructure.

I note that the House held similar hearings and introduced legislation last year which covered many of the issues our Commission had looked at as well, particularly the matters surrounding the decline in infrastructure spending in this country.

Our Commission held seven public hearings in the fall of 1992 with 46 witnesses from various financial institutions, development firms, pension funds, project sponsors, and public officials. Our report was submitted to the President and Congress in early 1993. We have briefed the leadership of Congress and the chairman and ranking members of the appropriate committees. Along with Ralph on the Commission was also then treasurer Kay Bailey Hutchinson from Texas and Neil Goldschmidt, the former Secretary of Transportation.

We believe that our recommendations are very timely and particularly applicable as Congress also addresses the issue of privatization, which I prefer to call as a more descriptive term private capital investment.

It is my pleasure to inform the members of this committee that on numerous occasions, perhaps 30 or more, I have been asked to give speeches around the country on the subject and the reception has been very positive. I think there is an intense desire to provide for new opportunities for private capital infrastructure investment in both new facilities and those already in existence where government does not have the means available for modernization, compliance, and savings.

By way of perspective, I think it is worth noting that the major Federal infrastructure initiatives that began in the post-cold war

era have now reached a point, 40 years later, where there is a certain maturity. Last year, Secretary of Transportation Peña spoke about the 40-year-old vacuum tubes which are the principal element of our air control system around the country. He suggested the need for the Air Services Corporation as a vehicle for private capital to invest in the modernization of those facilities. Coincidentally, that is the time when the Federal Highway System, under President Eisenhower, was initiated as were many other of our Federal infrastructure activities.

During that same period, most of the infrastructure funding in this Nation was devoted to either grant programs, at both the Federal and State levels, or in the municipal bond area.

During the course of our hearings, it was pointed out to me by a World Bank official that not only was the United States the only Nation in the world to provide for a municipal bond-tax exempt approach with a Federal tax subsidy for our infrastructure, but that the rest of the world was geared toward a project finance approach and we were not. Through this historical devotion to grant programs and municipal bond finance, which moves exclusively through the political process, we have inadvertently prevented the private sector from playing a role.

What is that role? I would tell you it is taking risk, it is introducing new technology, and it is providing alternative innovative financing. Most importantly, when we talk about privatization, there is private capital available with a willingness to invest in suitable infrastructure product if available.

Fortuitously, the Department of Energy and the Department of Defense are actively considering recommending to Congress a new credit enhancement facility to encourage private capital investment in Government-owned energy facilities. There is significant private sector interest in what would be a new energy generation market for them and a decided savings for the departments.

Another current example is a proposal—again deriving from our recommendations—by the National Education Association to create "Eddie Mac" as a vehicle for our Nation's pension funds to invest in securities dedicated to the rebuilding of our Nation's schools.

Our over-arching goal is to "grow the pie". That is not an either/or but rather an additional outlet on the financing artery of infrastructure. One of the reasons that American pension funds can invest in products overseas in China and elsewhere is that there is a global tradition of project finance. What we need in this country today is that same product deriving from that same discipline. Historically, we have provided a tax exempt status for pension funds during that same aforementioned 40 years. As a result, we now have a tremendous buildup of capital—probably the largest in the world—but we have never taken the time to design an infrastructure product for this vast resource of capital. Hence, it has looked for its investment opportunities elsewhere.

I must tell you, Mr. Chairman, that American institutional investors want to invest in their own Nation's infrastructure, but they do not because we have not to date responded to that interest. Colorado's public employee retirement system testified as to their trustees' desires to have 20 percent of their assets invested in Colorado, but they were only at 7 percent and had exhausted what

intrastate infrastructure opportunities existed. They heartily endorsed our recommendations as a way to increase the supply of infrastructure investment opportunities in their State.

The same story occurs in every State in America. That is my message here today.

As to pension funds, there should be no mandates. We said that in our report. Frankly, the whole subject of economically targeted investing—ETI, as it is called—is counterproductive. The issue is not on the pension fund side. It is on the product side.

What is needed in terms of the Federal and State governmental activities is to address the availability of development risk insurance so that you can get to the user fee, to that revenue stream. It is very difficult. Architects, engineering firms, consultants—what have you—struggling to get that user fee takes time and public acceptance.

No. 2, once you arrive at that user fee revenue stream threshold, you need to reinsure that so that construction finance can begin to take place. We are talking about the preconstruction, the most delicate part of infrastructure strategy.

No. 3, credit enhancement to get the product to the marketplace prior to actual construction. The financial institutions will do their own due diligence and will make their investments accordingly, stimulating over time the creation of a new liquid market and security instruments that are also attractive to pension fund investors. These would be at non-tax exempt yields sufficient to attract such investment since pension funds are already tax exempt and will not purchase tax exempt municipal bonds.

We provide risk insurance for American investment abroad through the Overseas Private Investment Corporation and now, since last year, through the Export-Import Bank. It is time to do the same thing in our own country.

Mr. Chairman, it was my pleasure to serve as chairman of the Commission. I look forward to working with you and your staff during the coming months as to how the Commission's recommendations will spur innovative financing techniques for both new and existing infrastructure, whether publicly or privately owned.

It should be understood that while transportation might be the leading edge for our proposals, they do incorporate other infrastructure modes. Whatever legislation is drafted should not be generically exclusive, but rather focus on the marketplace, entry of new ideas, the entrepreneur, and innovative revenue streams can evolve throughout the entire infrastructure spectrum.

I can assure you that just as American firms are actively involved around the world in energy and telecommunications infrastructure projects, with the experience of project financing in these other modalities of infrastructure, those global markets—particularly transportation and environmental infrastructure—will also enjoy American expertise.

As I noted earlier, there is a great deal of discussion now about privatization. The lesson from our report is, How does government encourage private capital investment. That is the key. The answer is, once again, by fostering product through modest Federal investment in development risk insurance, user fee reinsurance, and credit enhancement prior to construction, and as a result leverag-

ing those Federal dollars almost 20-fold by the entry of private capital.

I look forward to working with you and your colleagues as we move along.

Thank you, Mr. Chairman.

Senator WARNER. All of that would envision changes in the Federal Tax Code, wouldn't it?

Mr. FLANAGAN. Not really. I would defer to some of the work the Transportation Department has been doing, as was mentioned earlier. What we are really talking about is DOT providing techniques such as development risk insurance similar to what OPEC does, i.e., political risk insurance. It is very difficult for small firms to come into infrastructure, in terms of market entry, and do the environmental studies, etc., and then having the rug pulled out from under them later on when there is some adverse public decision.

So it is more on the insurance credit enhancement side, reinsuring the user fee, etc., to allow "product" to evolve.

Senator WARNER. Thank you.

Mr. Stanley.

STATEMENT OF RALPH STANLEY, SENIOR VICE PRESIDENT, UNITED INFRASTRUCTURE

Mr. STANLEY. Good morning.

My name is Ralph Stanley, and I am currently a senior vice president of United Infrastructure Company, a joint venture of Becthel and Peter Kiewit, two diversified construction companies with international operations and combined revenues of more than $11 billion. UIC is a developer whose purpose is the development, ownership, and operation of infrastructure projects. We are a company formed to address the shortfall in infrastructure resources and look forward to working with this committee.

Prior to that, I served as founder, chairman, and CEO of the Toll Road Corporation of Virginia, the first effort at infrastructure privatization. I have also been in Washington, DC, for 6 years as chief of staff to the Secretary of Transportation and Administrator of the FTA.

Senator WARNER. You certainly have an impressive background. You might just take a moment to tell us how that road is coming.

Mr. STANLEY. It should be open this fall.

Senator WARNER. Is that on schedule?

Mr. STANLEY. It is ahead of schedule.

Senator WARNER. What will the toll be?

Mr. STANLEY. I think it is scheduled to be $1.75 at opening.

Senator WARNER. That is very interesting.

Mr. STANLEY. It has been well documented, as you know, that there is substantial increased investment needed in infrastructure in this country. I won't go into those figures, but would like to focus my testimony on what specific steps can be taken in this Congress to increase the private sector involvement.

As Dan Flanagan mentioned, the phenomena of the private sector investing in infrastructure has become a global trend. According to a recent survey, more than 900 projects in 72 countries around the globe, with a total requirement of more than $680 billion, are in development or have been put under construction by private

sponsors in the 1980's. This trend is evident from Eastern Europe to the Asia Pacific where former Treasury Secretary Lloyd Bentsen estimated a need of $1 billion a week in China alone to meet that country's infrastructure needs.

Indeed, in the past 2 years, a number of funds have been raised to meet this need and many of them include American institutional investors, banks, pension funds, and insurance companies. Thus, as the competition for capital increases to improve infrastructure worldwide, we as a Nation find ourselves in the position of providing resources from U.S. insurance and pension funds to finance improved infrastructure overseas. Now is surely the time to remove barriers that prohibit similar private investment and ownership of infrastructure in the United States.

As I mentioned, I would like to focus on several specific steps that I think can be taken in this Congress that will not affect the budget or the deficit. It will free up billions of dollars in capital that will be invested in this infrastructure. I would like to say that I think that these steps, if done, will more than offset reductions that may be made in infrastructure spending as you deal with the deficit.

The first step I would encourage, as Chairman Flanagan mentioned, is the adoption of the National Infrastructure Development Act, which was introduced in the last Congress by Congresswoman Rosa DeLauro. That legislation grew specifically from the recommendations that our Commission made. As Chairman Flanagan indicated, those recommendations were unanimous and steps in creating a National Infrastructure Corporation are ones that I would urge the committee and committee staff to review.

Second, I think a major step forward would be the codification of Executive Order 12803. As you know, there are a number of not just highway but other infrastructure projects that have been built with Federal grants in the past 30 years. I signed several thousands of those grants during my tenure as administrator. A common feature of those grants requires a repayment of the Federal portion of the grant if the asset is transferred to the private sector. This restriction has simply prevented many such transactions, such as an effort in Albany, NY, to lease its airport in 1989.

In 1992, to address this problem, President Bush issued Executive Order 12803 which will require the city or the State to repay the undepreciated portion of the grant. Those grants, I might remind the committee, were never made with the intention that they would be paid back. I think the Congress should enact a measure that allows States and cities to transfer their federally aided highway and infrastructure assets by sale or lease so long as they are kept in their original use.

Legislation, which would achieve this, has been introduced in the House by Congressman McIntosh. I would encourage this committee to support that effort.

A second very specific step I would encourage the committee to take is to remove the current ban on tolls on interstate and Federal-aid highways. While I recognize that in States such as Montana and North Carolina, there is not a lot of support for tolls, Congress has, in the past two highway bills, made significant progress in relaxing the ban on tolls on Federal-aid highways. Specifically,

that sort of step would be helpful to repair the more than 280,000 bridges in this country that are unsafe.

I would also like to take this opportunity to congratulate the chairman and the committee for the draft legislation that has been introduced that would allow for a public-private partnership to design, build, finance, own, and operate the replacement facility for the existing Woodrow Wilson Bridge that was discussed today. Our company has joined with Brown and Root, a major international engineering company, as part owner and general contractor for the Dulles Greenway to pursue this project opportunity. We look forward to working with the subcommittee and the States of Maryland and Virginia as well as the District and Alexandria with regard to this project. We are fully committed to the involvement of all the political jurisdictions and are aware of the legislation to create the Woodrow Wilson Bridge Authority.

We are also following with great interest the current process to select the preferred alternative. Once that selection is made, we would look forward to trying to negotiate a franchise agreement with the proper party. The principles of that agreement and the relative risks and allocations of responsibility are a subject that we are working on today. They would include design work, environmental studies, traffic and revenue forecasts, and construction.

Finally, while the Federal share of funding for this project remains to be determined, I would encourage that the funding that does become available should be in the form of development funds or subordinated debt, as originally envisioned by ISTEA. It is clear to me that at a certain level tolls are going to be required. A combination of those two sources of funding would be the way this is going to get financed.

Finally, another specific change which would involve a change in the Tax Code that I would encourage the committee to look at, would be a simple removal of what is a current ban on operating and maintenance contracts related to infrastructure. What this ban has is the practical effect of curtailing a firm like our own from being willing to make capital investment.

This restriction simply should be abolished. I think if it were, you would see billions of dollars of capital improvements raised for facilities such as wastewater treatment plants as well as highway roads and bridge projects. These improvements would be made with taxable revenue bonds, which have the additional benefit of adding revenue to the Treasury.

In conclusion, I think these specific changes I have mentioned—the codification of the Executive order, removing the ban on tolls on interstate and Federal-aid highways, ending the 5-year restriction on operating and maintenance contracts, and reviewing the National Infrastructure Development Act—if done in combination would add billions of dollars to this country's infrastructure needs.

Thank you.

Senator WARNER. That is very interesting, Mr. Stanley.

I am not sure just how much we can do, but you certainly have stated the challenge.

Mr. Herrity, I can think of no one in the greater metropolitan area who can speak with a longer and more diversified breadth of

experience as to how to solve the problems before us today. We welcome you.

STATEMENT OF JOHN F. HERRITY, CHAIRMAN, THE INTERSTATE TRANSPORTATION STUDY COMMISSION

Mr. HERRITY. Thank you for the opportunity, Mr. Chairman and members of the subcommittee.

I appreciate the opportunity to be here. My name is Jack Herrity, and from December 1992 through 1994, I served as the chairman of the Interstate Transportation Study Commission.

I would like to take this opportunity now to thank Secretary Peña and Ms. Garvey for their support and help in this 2-year process. They were instrumental in helping this to move ahead and I appreciate it very much.

The Commission was established and authorized by section 1099 of the Intermodal Surface Transportation Efficiency Act of 1991 to "recommend new mechanisms, authority, and/or agreements to fund, develop, and manage the transportation system of the National Capital Region, and primarily focusing on interstate highway and bridge systems."

The Commission was composed of Federal, State, and locally elected representatives of Maryland, Virginia, and the District of Columbia, and was supported in its efforts by the Greater Washington Board of Trade. Over the past 2 years, the Interstate Study Commission has carefully examined the delivery system for interstate highways and bridges both within and outside of the National Capital Region, and worked closely with the U.S. Department of Transportation officials and Federal, State, regional, and local transportation experts. After a lengthy review process, the Commission concluded that the transportation planning process works relatively well, but that more needs to be done to implement the region's plans. I would underline the word "implement".

For consensus' sake, it was concluded that our recommendations should focus on the implementation of plans for one single-purpose interstate transportation need. The current level of regional consensus on the need for an enhanced Potomac River crossing at the Woodrow Wilson Bridge led us to believe that addressing the implementation of such a project would be the best test case.

As you know, the Woodrow Wilson Bridge links Prince George's County in Maryland and the city of Alexandria in Virginia. Although it serves as a vital link to the economy of both of these counties and the region as a whole, the traffic statistics alone dramatically demonstrate the need for an improved crossing.

For example, the bridge was congested for 8 hours per day in 1990, according to the Woodrow Wilson Bridge Improvement Study. That study also showed the Fairfax, Prince Williams, and Loudoun Counties in Virginia and Prince George's and Charles Counties in Maryland are the starting point for 80 percent of both east and west bound Wilson Bridge traffic. Then factor in growth trends of these suburbs in the year 2020. Prince George's County will grow by 33 percent, Fairfax by 46 percent, Charles County by 85 percent, Prince William by 88 percent, and Loudoun County by 178 percent.

92-534 O - 96 - 6

These statistics paired with the well-known structural deterioration of the bridge makes immediate action to replace the bridge an absolute necessity. In my opinion, that replacement and respiration and eventual expansion of the existing structure is the appropriate option.

I have been told that to restore the bridge, two lanes of traffic on each side of the bridge would have to be closed down entirely for a number of years. We already have a traffic capacity requiring eight lanes using a six-lane span, which is interesting mathematics. The congestion resulting from a restoration effort would be unimaginable.

When pulling data compiled by AAA, three out of four area residents support an increase in the capacity of the bridge.

Senator WARNER. Could you repeat that last statement, please?

Mr. HERRITY. According to the Gallup Poll done for the AAA, three out of four people in the area support the restoration and reconstruction of the Woodrow Wilson Bridge.

Senator WARNER. Is there any profile of the typical user of that bridge, where he or she is going and what the necessities are?

Mr. HERRITY. I believe that most people using the bridge come from Prince George's County and Fairfax, other than interstate traffic. These are your immediate large jurisdictions on either side of the bridge, Alexandria being much smaller than Fairfax, obviously.

But primarily Prince George's County has the major amount because a lot of the jobs are in Fairfax. They cross over the bridge to get to their job.

Senator WARNER. So they are seeking employment on one side or the other of the bridge?

Mr. HERRITY. That's correct.

Then from the local and regional standpoint it would be Fairfax. They go down from those two jurisdictions.

However, the complexities of responsibility for the existing bridge will make implementation plans for the replacement bridge difficult. Consider that the Woodrow Wilson Bridge is the only part of the interstate system owned by the Federal Government. In addition, the bridge is maintained and operated by a combination of Maryland, Virginia, and the District of Columbia.

Exacerbating the question is the deterioration of the facility designed to carry 70,000 vehicles a day, which you have aptly pointed out currently carries 160,000 and also frequented by heavy cargo vehicles. It was estimated by 1993 and 1994 that the bridge had a remaining life span of 10 years. I think 10 years is for passenger vehicles. But if you are talking about trucks, I think it may be a lot less than 10 years. That is something someone ought to look into. It could be as little as 5 years if you are talking about heavy interstate trucks which use this bridge.

The bridge is the only drawbridge on the regional interstate network with only six lanes. The volume of the traffic will increase by the year 2020 by more than 70 percent. All these factors add up to create a situation which requires the utmost cooperation between the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and the Federal Government. Under such circumstances, the Interstate Study Commission concluded that the

creation of a new interstate authority charged specifically with the implementation of plans being developed by the Woodrow Wilson Bridge Committee would be the most appropriate mechanism for ensuring the timely replacement and/or enhancement of the existing bridge to the satisfaction of all parties.

The Commission recommended that this authority be composed of 13 members, 4 members each from Maryland, Virginia, and the District of Columbia appointed by their Governors and the mayor, and one citizen representative appointed by the U.S. Secretary of Transportation. We would also recommend that this be created through interstate compact and be granted latitude of powers including ownership, operation, and maintenance of the new facility, the ability to impose tolls, issue bonds, and enter into contracts.

Central to the effort, however, is determining the level of Federal funding that will be dedicated to this project. One might say at the very least this issue captured the attention of legislators in Maryland, Virginia, and the District of Columbia from the beginning. Needless to say, each of these jurisdictions would like to see the replacement receive full Federal funding in light of the Federal Government's ownership of the existing bridge.

It is not my intention today to begin a debate over Federal funding for this project. That is an issue that I leave in the capable hands of the members of this body. However, the legislation that is under consideration in each of the jurisdictions provides for negotiation of Federal-State shares by assuming full control and permit responsibility for the bridge.

In closing, I would like to refer this committee to the Interstate Study Commission Report and full recommendations submitted to Congress on December 31, 1994 and urge your consideration of the Commission's recommendations.

Today the Woodrow Wilson Bridge has approximately 9 years of useful life remaining. You don't have much time between project impact, analysis, design, and construction. With an authority in place to facilitate the implementation of the plans, the National Capital Region can move one step closer to addressing this difficult interstate problem.

Thank you for allowing me this opportunity to testify. I will be happy to answer any questions.

Senator WARNER. Just one comes to mind.

If the bridge has 9 years of life left without some major capital expenditure over and above ordinary maintenance, how many years do we need to build the new bridge? It looks to me like those curves are crossing right about today.

Mr. HERRITY. It is pretty tough. The time is now. I think the study of the Woodrow Wilson Bridge has been going on for about 10 years—not this particular commission, but they have had a design competition. The whole thing goes back 10 years. Some people have termed it "paralysis by analysis" at this point.

Senator WARNER. I think we can avoid to continue that process.

Does anybody else have a comment as to when we ought to get started on that bridge?

Mr. STANLEY. Mr. Chairman, during my tenure in the Federal Government, we were studying the same issues. I would stress from an engineering, construction, and operations standpoint, for a

replacement facility that we should be well along having chosen the alternative—now—today.

I think the legislation that was introduced in terms of accelerating and getting an authority created is not only a great service to the area, but also a terrific precedent. As I mentioned in my testimony, there are 280,000 unsafe bridges in this country. On many of those, there is now a biannual survey which we started at the Department in 1982. Those are infrastructure needs that simply cannot be postponed. It is not a question of a new road or a new facility. You can't postpone those. They are a very, very real safety issue today.

Senator WARNER. I am anxious to hear from Ms. Stern. If you will forgive the informality of this hearing, Ms. Stern, please lead off now.

Ms. STERN. Certainly, Mr. Chairman.

STATEMENT OF ANN STERN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, FINANCIAL GUARANTY INSURANCE CORPORATION

Ms. STERN. Thank you, Mr. Chairman and members of the subcommittee.

My name is Ann Stern. I am chairman and chief executive office of Financial Guaranty Insurance Company, a leading insurer of municipal bonds issued to finance public infrastructure. Of the approximately $200 billion a year issued of municipal bonds, approximately one-third of those are insured by private companies such as the one that I currently lead. I appreciate having been given the opportunity to talk with you today about how the capital markets view the risks associated infrastructure investment and steps the Federal Government can take to encourage innovative infrastructure financing.

The subcommittee's inquiry into this topic comes at a particularly appropriate time. Last year, voters all across America told elected leaders they want less intrusive government, tighter control of public spending, and lower taxes. But in the one area in which Americans regularly get to vote directly on whether they want to increase public spending—namely, the authorization of municipal bonds to finance investments in schools, highways, and other public facilities—a majority of Americans voted last fall in favor of increasing capital spending. Americans may want smaller and more efficient government, but they also want safe and well-maintained infrastructure. The committee's challenge is to redefine the Federal Government's role in ways that fully support State and local efforts to meet these basic infrastructure needs.

It is important to recognize that increased investment doesn't always have to mean higher taxes. During the last 10 years, State and local officials have developed creative new ways to finance major capital projects without the use of taxes. Toll roads and passenger facility charge financing of airport improvements are two examples among many.

After a period of several decades in which it was assumed that Federal grants matched by State and local appropriations represented the only way to finance highway construction, toll roads have re-emerged as a familiar phenomenon on the American public

work landscape. Given the current estimates of the need for highway reinvestment and the widespread resistance to tax increases, we advocate the elimination of the remaining Federal prohibition on the imposition of highway tolls.

Private bond insurers have played a major role in the growth of revenue-backed project financing. My own company has, for example, insured bonds issued to finance construction of both the Harris County and Dallas North toll roads. When we are asked to insure bonds issued to finance toll facilities, we scrutinize historic usage, estimates of future traffic growth, and the forecasts of local economic growth on which these estimates are based. We look carefully at the prospects for competition and the sensitivity to future toll increases.

We typically require rate covenants that commit the toll road authority to increased tolls, if necessary, to meet its debt service obligations. In some cases, we may require a back-up pledge of some other revenue source to make up any shortfall.

The value that we and the other private insurers add to revenue-based finance does not come from our expertise alone. Our AAA-rated claims paying ability, which our insurance affords the bonds that we insure, provides investors with the comfort of knowing that all payments of principal and interest on bonds will be made on time and in full and provides issuers with a lower cost of funding.

The need to rebuild or replace the Woodrow Wilson Bridge presents an interesting opportunity to use revenue based financing to support an essential capital project. As a vitally important link in the highway network that serves one of the Nation's most heavily traveled areas, and with an average daily traffic volume of 165,000 vehicles, the Woodrow Wilson Bridge is precisely the type of facility that should be able to generate substantial income from those who use it.

Senator WARNER. On that point, that is a key point. There are other routes toll-free, and someone has to sit down and really use a crystal ball—hopefully with a computer—and figure out where that figure hits.

You use $1.75 for your road, and likewise you have circumferential toll-free routes. I suppose over time you will be able to quickly ascertain that.

But that bridge toll sounds easy. But there are means by which to go toll free and that impacts very directly on Alexandria and other localities in northern Virginia if they begin to pursue the other bridge route.

Ms. STERN. I think one of the important considerations would be—we have heard today the wide range of potential solutions to the bridge problem. Provided that the solution is one which very much expedites the speed at which traffic can cross the bridge so that it becomes the preferred method of travel would be a critical factor there in insuring that people want to pay the toll. If people get value—if they feel they have gotten value for paying the toll, they will pay the toll.

Increasing public capital investment need not involve major new spending commitments by the Federal Government. The wastewater treatment revolving loan fund, which was established under the Reagan administration, is a model for how to encourage

greater and more efficient State and local investment at a relatively small cost to the Federal Government. Indeed, the Department of Transportation has already proposed to use a portion of Federal transportation money to capitalize State infrastructure banks—the transportation equivalent of wastewater treatment revolving loan funds—rather than as direct Federal reimbursement for State and local spending.

State infrastructure banks, as proposed by DOT, could help overcome what is in our experience the most significant barrier to revenue-based financing of infrastructure projects—namely, the up-front risks associated with development and construction of these projects.

Once a historical pattern of usage of a toll facility has been determined and established, low-cost financing in the municipal bond market is obtainable. Prior to that time, there is significant risk of non-completion, late completion, as well as the risk that you referred to which is that public acceptability will be lower than projected.

If you look at the history of defaults in this area, they have all stemmed from one or more of those factors.

State and local authorities have come up with some innovative ways to address this up-front problem. In the case of the San Joaquin Corridor projects in California, early stage development costs were financed through impact fees imposed on local developers rather than borrowing. Additionally, the San Joaquin Transportation Corridor Agency also put in place up-front a low-cost refinancing of their project, which is triggered after there are 2 years of historical usage that show that the facility is self-supporting.

Changes such as the ones I have mentioned would make it possible to increase revenue-based financing of capital projects for transportation. As in the case of toll road and airport projects—which I referred to earlier—FGIC and other private bond insurers stand ready to work with project sponsors and with your committee to help make revenue-based financing work more effectively.

Thank you.

Senator WARNER. Thank you very much.

Chairman Chafee, would you like to speak to this panel now and ask questions?

Senator CHAFEE. Mr. Chairman, why don't you go ahead. I will wait and take my turn. That is very generous of you and I appreciate having the opportunity to hear these witnesses.

Thank you very much for joining us.

You go ahead and I will follow after you.

Senator WARNER. Fine.

Ms. Stern, as I listened very carefully, your primary concern—understandably, because you're insuring these municipal—is the reliable revenue stream.

In a somewhat opposite view, Mr. Flanagan, you feel that more Federal dollars lowers the risk a little bit. Would I be correct in that?

Mr. FLANAGAN. No, no, no, no, Mr. Chairman. I think Ann Stern and I are in complete agreement.

Senator WARNER. You are?

Mr. FLANAGAN. Yes.

What we're suggesting is modest government support development risk insurance, which hasn't heretofore been in the marketplace—for preconstruction. There is construction risk insurance available, but not preconstruction risk. The market also hasn't really done that much in the area of reinsuring the "take or pay" contracts, if you will, the long-term revenue streams that will come forth after the project is up and running.

So again, it is that preconstruction area where the uncertainties exist and where the long-term private capital that you would like to see come into infrastructure is jeopardized.

The Federal funding we are suggesting is in the context of general downsizing on the Federal side. At a minimum they ought to ensure that there are these disciplines available to the States to leverage the availability of private capital coming in, both in the municipal side on tax exempts where that is applicable, and where it is not, many projects will look toward pension fund and other institutional investors to buy those long-term bonds.

As I said earlier, pension funds do not buy municipal bonds. They are already tax exempt. So are the pension funds. So we have two ships passing in the night here. We really need to marry up our capital resources here with product over there. We are suggesting that the Federal Government should look at why we don't have, for this market, development risk insurance, user fee re-insurance, etc., in the private sector. If we are going to do it through OPEC for American investment abroad—and we do it everyday—why not in the United States.

Last year, the Export-Import Bank initiated project finance for overseas American investment for the first time, and they now include development risk insurance. I said to Ken Brodie, "What you're doing now for overseas investment, we need to do in our own country. We have enough political risk here that discourages the entrepreneurs from coming into infrastructure. We need that market entry and new technology."

Senator WARNER. Mr. Herrity, how would you describe what you would hope the role of the Federal Government would be in your proposed interstate authority?

Mr. HERRITY. I think basically the role is for the Governors of Maryland and Virginia and the mayor of the District of Columbia to negotiate initially for the highest possible Federal payment they can get. The authority would take over the ownership, construction, operation, and maintenance of the bridge once the project is determined by the Commission and the planning board. The Federal Government's role would be much more limited.

Senator WARNER. Is there any sort of a dart board you have up there now as to where you would like to see the Federal Government come in?

Let me give you an example. Would it be to really take over the entire capital cost of the initial investment, then the States and the authority would take over the maintenance and the operation?

Mr. HERRITY. No, I think the ideal would be for the Governors—under the Virginia legislation, as passed, before the authority is activated the Governors of Maryland and Virginia and the mayor of the District of Columbia would negotiate the Federal share. It is only upon the termination of these successful negotiations to sat-

isfy the Governors of Maryland and Virginia and the mayor of the District of Columbia that the authority would be activated. Hopefully they can negotiate 100 percent. But we know that is probably not going to be necessarily realistic. But that is certainly the objective of legislators in Maryland and Virginia. Whether that happens or not is not very optimistic.

But once that happens, then the authority would take over the construction, ownership, operation, and maintenance of the whole thing. So they would issue revenue bonds or whatever else is necessary to supplement the Federal share and then continue on through and operate and maintain the bridge and/or tunnel.

Senator WARNER. Mr. Stanley, you are representing a consortium of private investors looking at this Woodrow Wilson Bridge project. Would you prefer to deal with an authority or strictly with the Federal Government?

Mr. STANLEY. I think we would prefer to get the project underway as quickly as possible. In so doing, I think there are two alternatives. One thing that concerns me about the authority is the delay of its implementation until such time as a Federal share—which I would think satisfactory to the States would be an amount that the Federal Government may not be able to afford—is established.

Senator WARNER. What you are softly saying is that that negotiation may go on for an extended period?

Mr. STANLEY. I think so. I think one of the elements that people must talk about frankly and publicly is what that amount of money is going to be and what it is not going to be.

I would also add that I think one of the ideas is to form what that money can be used for. One of the things that I think is very encouraging about ISTEA—and what makes this project such a perfect example for innovative financing—is to allow that money to be used as debt in a user fee facility.

I would just mention my experience in Virginia. We were in the capital markets for 2.5 years, which I think is some kind of record for an attempt to finance a capital project. Every bank and insurance company we talked to asked about the Commonwealth of Virginia's position on the project. With the Senator's support—

Senator WARNER. You mean as a guarantor?

Mr. STANLEY. No, whether they were in support.

We had lots of conversations at that time with Dan Flanagan and the Senate Finance Committee about what was holding the project up. The idea that came out in ISTEA which enabled a State to have subordinated debt—not the amount of money that would be in it—but I think if you could go to a lender and say, "The Federal Government has $100 million worth of subordinated debt below what you're going to lend, that was confidence that over the life of the franchise the Commonwealth of Virginia was supportive of this project."

I can't tell you how many times we had that question asked. In fact, the irony in the project was that when ISTEA was passed in 1991, the first term sheet we got back from the lending group of banks included a requirement that we get a certain amount from the Commonwealth of Virginia as part of an overall capital structure. That amount could have been as little as $20 million, but the

confidence it gave the other lenders was so enormous the project could have been financed a year and a half earlier.

But that provision and the ability to do that on a practical example like this bridge and the flexibility in how the Federal funds are determined is essential. But I am concerned that—we would work with whomever the single entity is, whether the Federal Government or the Authority. But my concern is that a project that has already been delayed too long, whether that authority's creation is delayed unduly because of a disagreement about the amount of Federal funding.

Senator WARNER. Chairman Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

The subject here today is the Woodrow Wilson Bridge, which I must say that I don't know an awful lot about. It is one of several subjects that I don't know a great deal about.

When you are working with a bridge that carries 167,000 vehicles a day—and I suppose you can multiply that by the working days of the year, which is maybe 310—you have a pretty good revenue stream there.

Senator WARNER. Assuming they use it and don't dart off the other way.

Senator CHAFEE. I would like to ask about that.

It is my casual judgment in looking at toll roads that the public doesn't seem to try to avoid these roads. I suppose, as was pointed out here, if the road itself or the bridge presents a time-savings—but for example, the New Jersey Turnpike or the Maine Turnpike. Both roads we travel as tourists. We certainly never consider how we can get around these turnpikes. That is not a consideration.

Are tolls a consideration with the traveling public? Are tolls a consideration with trucks?

Mr. Stanley, would you like to answer that?

Mr. STANLEY. They are a consideration, but your instincts, Senator, are absolutely correct.

We did a survey when I was FTA administrator of the traffic that crossed the George Washington Bridge where I grew up to find out at what toll level there would be a significant diversion of people crossing it. The current toll I think is $4. You don't get a significant diversion on that bridge—or most of the East River crossings—until the toll was $10. I think one of the—

Senator CHAFEE. That $4 is just one way? There is no toll the other way?

Mr. STANLEY. Right.

But I think what you are seeing—we did survey after survey on the Dulles toll road extension and boiled down—there is a premium today on what people put on the value of their time. When asked what we were really selling and what you would really be selling on the Wilson Bridge is the time savings. I interviewed people who worked at Dulles Airport who were hourly workers who said that if we saved them 20 minutes so that they could spend more time with their family, and there is a certainty to that every day, you would be amazed at what level they would be willing to pay.

I would contend—and we are willing as part of this working with Federal Highway Administration or the authority to do that kind of traffic diversion study, which are very accurate on existing facili-

ties—that there would be little diversion on the Woodrow Wilson Bridge, particularly if the toll is done as an automated vehicle identification.

As Ann mentioned, it is working in—

Senator CHAFEE. I was interested in what Ms. Stern had to say about the speed and getting through there quickly. You buy a ticket and then it is picked up, sort of like the metro? You get a deduction as you go through?

Mr. STANLEY. But you really don't have to do anything. I used the analogy of a cellular phone versus dropping quarters in a phone booth.

Our company manufacturers and has equipment that has been tested up to 100 miles an hour going through where it is just read. It is functioning on the entire Oklahoma Turnpike System, it is functioning in Dallas. As a result, you can get as much as four times as much traffic through a particular lane in the same hour as you can in an exact fare current conventional collection.

That convenience, which I think public authorities have been too slow to adapt—if you provide that kind of service and convenience to people crossing the Wilson Bridge, I think there will be very little diversion.

Senator CHAFEE. I just don't know what the big problem here is, Senator. Is it getting people together? The life of this bridge is only 9 more years.

Ms. Stern, you pointed out on page two of your testimony that you were recounting the success of a municipal bond issue in the past election. You said that an amazing 96 percent of the new authority requested for environmental facilities were approved.

What falls in that category? Is that sewers, incinerators, waste treatment plants?

Ms. STERN. It is all of the above, anything that is required to either conform localities to State mandates or Federal mandates in the area. It is a broad category, but it is all focused on meeting environmental requirements that are set.

Senator CHAFEE. Naturally, sitting on this committee, I am pleased that people approved that. You perhaps indicated that it is under some duress since it was a requirement, but nonetheless 96 percent of them were approved compared to schools at 73 percent.

I just don't see the problem with tolls. As Governor, I built the largest bridge in New England in our State, and that was opened 25 years ago. At that time, there was a $2 toll. Locals could buy tokens—anybody could buy tokens, but it tended to be the locals—for $1. And $2 was a lot in those days. But amazingly little objection was voiced.

Senator WARNER. Mr. Chairman, I hasten to point out that staff has advised me that the Federal Highway Administration will have information in May on traffic diversion based on different rates and tolls. That will be studied by an appropriate authority.

Senator CHAFEE. I just have not encountered—and I am not an expert in it—resistance to tolls or diversions. Again, it has amazed me that some States take off tolls. For example, on the Connecticut Turnpike, Connecticut took off those tolls. They had that terrible accident there, but why did they do that?

Mr. STANLEY. The real reason they did that, Senator—I was at the Department both when that tragedy occurred and when that decision was made.

Subsequent to the 1982 highway bill, Connecticut calculated what their Federal share of funding would be under the new formula. And that facility, which then had a toll and which didn't qualify for Federal funding—they basically figured what they would get if tolls were left and what they would get if tolls were removed. With a great deal of ballyhoo, the tolls were removed. But the real reason was because they did get a higher Federal share of funding.

Senator CHAFEE. Thank you very much, Mr. Chairman. These have been some extremely interesting witnesses.

Senator WARNER. We are moving right along with the bill, Mr. Chairman. We hope to markup this bill shortly after we come back.

[Whereupon, at 11:40 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. ROD GRAMS, U.S. SENATOR FROM THE STATE OF MINNESOTA

Mr. Chairman, I appreciate the opportunity to present my views to you on a highway project that has been a long-time priority for the State of Minnesota. Now that work has commenced on the segment funded by the Intermodal Surface Transportation Efficiency Act (ISTEA), it is critical that the job be completed. That highway project is the Minnesota Trunk Highway (T.H.) 610/10 project linking Interstate Highway 35-West in Mounds View with I–94 in Maple Grove. This Committee supported the funding of $36 million for this project in ISTEA and for that I am truly grateful.

I understand that this Subcommittee has taken the position that highway projects will not be included, at this time, in S. 440, the National Highway System Designation Act of 1995. As you know, it has not been my practice to regularly request funding for specific projects. However, the arguments are so compelling that this project be completed without delay that I must make this special request to the Committee. Should the opportunity arise where other transportation projects are funded, I would request that $10 million of Federal highway trust fund contract authority dollars be designated for this project over Fiscal Year 1996 and Fiscal Year 1997.

There are those who criticize congressionally designated highway projects on the basis that the Congress is attempting to override local opposition or the local decisionmaking process. That criticism could not be further from the truth when considering the Minnesota T.H. 610/10 project. I would ask you to consider the following:

1. In Attachment A to my testimony, you will find a letter from Minnesota Department of Transportation Commissioner James N. Denn. Mr. Denn documents that the Minnesota T.H. 610/10 project is a part of the State Transportation Improvement Plan (STIP) and he states, "Projects [in] the STIP work their way through a very exhaustive and thorough process at the State and local level. The T.H. 610/10 Project is a high priority project of the State of Minnesota."

2. Every elected official in the State legislature representing the T.H. 610/10 service area, whether Democrat (DFL) or Republican (IR), has endorsed the need to fund this project.

3. Every Mayor on a bipartisan basis in the T.H. 610/10 area, representing over 860,000 persons has endorsed the need to fund this project.

Therefore, every elected official from the Mayors to the Governor endorse this project and have designated it as a local priority. For this project in particular, no one can make the case that Congress or anyone else is trying to override local priorities.

Let me describe the project for the Subcommittee and the critical need for the $10 million that is being requested. Please refer to Attachment B as I describe the project. The overall T.H. 610/10 Project is being developed in four phases. Phase 1, which is complete, is a 2.25 mile segment including a bridge span across the Mississippi River near T.H. 252. Phase II, which was partially authorized by Congress in the Intermodal Surface Transportation Efficiency Act of 1991, involves construction of T.H. 610 from T.H. 252 in Brooklyn Park, MN, to T.H. 169. Phase III will continue T.H. 610 from T.H. 169 in Brooklyn Park to its western terminus at I–

94 in Maple Grove. Phase IV will involve a final bridge span across the Mississippi River, complementing that constructed in Phase I.

The Corridor is designed to support the significant increase in planned development and forecast employment throughout the local communities during the next 20 years. The 860,000 current citizens of the North Metro area will be well-served by the completed intermodal transportation facility. At present more than 70 percent of the labor force in the area commutes to and from their workplace daily, placing significant burdens on current transportation systems. By improving the cross-town flow of daily traffic between the two north-south interstate systems, a completed T.H. 610/10 Corridor will help insure the successful long-term economic growth of the area.

The designation of $10 million in discretionary Federal highway trust fund dollars will permit the completion of Phase II and will allow Phase III design and engineering activity to proceed with delay. For the Subcommittee's information, major elements of Phase III of the project include the following:

Interchanges will be constructed at I–94, CSAH* 121, CSAH 130 and County Road 202. All entrance ramps will incorporate ramp meters and HOV bypass lanes.

Roadway overpasses will be constructed at Fernbrook Lane, Hemlock Lane, Revere Lane and Jefferson Highway. A pedestrian overpass will be built between Revere Lane and Jefferson Highway as will a regional trail crossing near Elm Creek Park Reserve.

A "park and ride" lot will be constructed at the County Road 202 (Zachary Lane) Interchange.

Railbed grade separations will be provided at the CSAH 130 Interchange.

I point out the specific parameters of Phase III construction because these are the facilities that need to be planned, designed and engineered in the near future to insure that the project moves ahead without delay.

As we all know, when a project is delayed costs escalate and in some cases can push the overall cost of the project beyond the means of the resources available. Usually such delays are caused by problems involving the approval of the project's Environmental Impact Statement (EIS). I am proud to say that the Minnesota T.H. 610/10 Project EIS was approved last June and would serve as no impediment to work moving forward. With the significant development in the EIS approval last Summer, MNDOT moved the completion date of the Phase II project ahead by 2 years, *assuming that adequate funding resources were made available to the project.* That is why these funds are critical to the project and why they must be approved as part of the NHS legislation.

Members of this Subcommittee and Committee during the Conference Committee with the other body in 1991, increased the funding for the Minnesota T.H. 610/10 project from $7 million to $36 million. That was a significant boost for this project and as I have stated it is greatly appreciated. The job must be finished and it will take more Federal discretionary highway funds to do just that.

Mr. Chairman, I thank you for this opportunity to submit this request and I hope when the time comes that this project receives the support that it needs to keep it moving forward.

---

*"CSAII" is an abbreviation of "County State-Aid Highway" a designation of MNDOT indicating eligibility for funding from State motor fuels tax revenue.

ROD GRAMS
MINNESOTA

COMMITTEES
BANKING, HOUSING, AND URBAN AFFAIRS
ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
JOINT ECONOMIC

United States Senate
WASHINGTON, DC 20510

WASHINGTON OFFICE:
PH 202-224-3244
FAX 202-228-0956
INTERNET MAIL_GRAMS@GRAMS SENATE GOV

MINNESOTA OFFICE:
2013 SECOND AVENUE NORTH
ANOKA, MN 55303
PH 612-427-5321
FAX 612-427-8872

April 6, 1995

Hon. John Warner
Chairman
Transportation and Infrastructure Subcommittee
Senate Environment and Public Works Committee
SD-410
Washington, D.C. 20510

Dear Senator Warner:

I would request that the attached testimony be placed into the Committee hearing record for April 6, 1995. I would also like to request that this letter and testimony be my formal request of you and the Subcommittee to designate funding in the National Highway Systems Designation (NHS) Bill for the Trunk Highway (T.H.) 610/10 Project in Minnesota.

As you may know, last year the House of Representatives included $4 million of designated funds for the T.H. 610/10 Project in the National Highway Systems Designation Bill. This corridor would have an immediate benefit on the 860,000 current citizens of the North Metro area. At present, more than 70% of the labor force in the area commutes to and from their workplace daily, placing significant burdens on the area's current transportation system. By improving the crosstown flow of daily traffic between the two north-south interstate systems, a completed T.H. 610/10 will help assure the successful long-term economic growth of the area.

As you will see in my testimony, the designation of these highway trust fund discretionary funds will insure that the project proceeds without delay and without significant increases in costs. In addition, you can see that the project is a high priority project of the State of Minnesota and has full support from local officials.

I understand the Subcommittee is currently opposed to the inclusion of designated highway projects in the NHS legislation. However, should the subcommittee determine that designation of the T.H. 610/10 Project is warranted, I would like to be on record supporting inclusion of T.H. 610/10 at the level of $10 million.

Again, I appreciate your consideration of my testimony in support of including the T.H. 610/10 project in the NHS Bill. Should you have any questions, please feel free to contact me or Tom Yedinak of my staff at 224-3244.

Sincerely,

Rod Grams
U.S. Senator

STATEMENT OF JANE F. GARVEY, DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION

INNOVATIVE FINANCING AND THE WOODROW WILSON MEMORIAL BRIDGE

Mr. Chairman and Members of the Committee, I thank you for the opportunity to be here as this Committee completes its series of hearings on the National Highway System (NHS), and for the opportunity to discuss innovations in the financing of Federal-aid transportation projects that have developed over the past year.

First, let me say that the Department of Transportation (DOT) appreciates your commitment to enacting NHS legislation as expeditiously as possible. We commend you, Mr. Chairman, for introducing a straightforward designation bill, S. 440, cosponsored by nearly all Committee members; conducting substantive hearings; and moving toward mark-up, possibly next month. I do not need to tell this Committee how important timely enactment of an NHS bill is to all 50 States. This legislation is one of Secretary Peña's and Administrator Slater's highest priorities, and DOT is prepared to assist in any way we can.

I am delighted to return today to talk about the efforts of DOT to develop some new financing tools which may prove useful in addressing both large and smaller needs on our Nation's transportation system and to talk specifically about a major infrastructure concern in this region—the Woodrow Wilson Memorial Bridge. Without question, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)—which this Committee played such a significant role in shaping—has helped spark our thinking about innovative finance and ways to creatively stretch our scarce transportation funds. We are also mindful of Senator Baucus' strong interest in providing greater flexibility to States to fund transportation projects, and we recognize the groundwork he laid in the previous Congress with S. 1714, the State Transportation Financing Improvement Act.

Early this year, Secretary Peña announced the results of a new DOT initiative—the Partnership for Transportation Investment. The first round consists of over $2 billion in projects that have been developed not as a result of adding funds, but rather by enhancing the use of existing funds. For example, Ohio proposed to finance improvements to I–75 and State Road 129 by creating a "transportation improvement district" from which a variety of future revenue sources are pledged at the State and local levels to pay for bond-financed improvements. Ohio can, therefore, spread its Federal-aid funds committed to the project over a number of years in response to variable future revenue sources, which will include tolls. Similarly, Vermont has for over a decade planned the construction of a by-pass highway near Burlington which will now be supported, in part, by future apportionments without creating a burden on Vermont's State-wide program today. South Carolina solicited proposals under a public/private partnership initiative to finance and build a new highway under which the voters in the county will decide the blend of toll, sales tax, and hotel tax revenues that will be pledged to bond payment. The Federal Highway Administration (FHWA) is working with the State to ensure that the project is financially feasible and has a funding structure that maximizes the State's flexibility in paying from local sources a majority share of the facility's cost.

And in New York, a program called MINI-TECH provides for modernization and technological improvement of several border bridges in the Buffalo-Niagara area. With innovative financing, the FHWA is helping New York establish a revolving loan fund seeded" with Federal funds. This project also supports increased trade under NAFTA. This program, which will bring "on-line" the latest in transportation technology, brings together U.S. and Canadian agencies in a partnering arrangement. Revenues from cross-border bridge crossings will help finance the revolving loan fund that can finance on-going transportation improvements in the whole Niagara corridor. A similar financing structure was approved in Texas between the Texas DOT, the Texas Turnpike Authority, and the city of Laredo to finance an additional crossing to Mexico. Let me now discuss how these and other innovative financing initiatives could be used in connection with the Woodrow Wilson bridge.

The problems of the bridge are ones we all experience today; faced with limited Federal resources, we must find a solution to the structural, operational, and capacity problems of an aging segment of our Nation's transportation infrastructure. The Department is committed to taking all steps necessary to ensure the safety of those who use this bridge and to resolve these problems in a manner responsive to both State and Federal interests. Transfer of ownership of the bridge from the Federal Government to the States would ensure that the needs of this bridge are addressed in a manner consistent with that of other bridges on the Interstate System, all of which are owned by the States. Recognizing current budgetary constraints, we believe that the financing of any new crossing must employ innovative financing tech-

niques, including user-financed solutions, to minimize the budgetary impacts of the project on both the Federal Government and the States.

Let me first discuss the structural condition of the bridge, the factors that have caused the bridge to deteriorate, and the proactive measures we at the Department have already taken to identify potential solutions to current and future problems with the structure

STATUS OF THE WOODROW WILSON MEMORIAL BRIDGE

Built between 1958 and 1961 at a cost of approximately $24 million, the Woodrow Wilson bridge no longer efficiently serves the transportation needs of Washington area commuters, truckers, and travelers who cross it daily by the thousands.

As of the last major inspection in October 1994, bridge experts consider the bridge to be safe and inspect it regularly to identify the repairs needed to keep it in service. While the service life of the bridge under its current rehabilitation schedule is estimated to be less than 10 years, this should not be interpreted to mean that the bridge is unsafe; it is not. In 1981, the Congress provided $60 million for rehabilitation of the bridge, and the deck was replaced and other components repaired at that time. The bridge is now undergoing a 3-phase short-term repair and rehabilitation program, financed by Federal funds provided in ISTEA. Although the Federal Government owns the bridge, the District of Columbia, Maryland, and Virginia are responsible for its operation and maintenance and together spend approximately $300,000 annually to operate the bascule (drawbridge) span; conduct general maintenance, painting, and snow removal tasks; and provide lighting, water, and electrical service.

Several factors have, however, contributed to the deterioration of the current structure and have led to increased congestion at the bridge. First, the bridge is the only 6-lane portion of the 8-lane Capital Beltway; thus it requires the 8 lanes of traffic entering the bridge from both Virginia and Maryland to merge with additional traffic from the interchanges immediately adjacent to the bridge, creating a bottleneck not only during morning and evening rush hours, but increasingly throughout the day. Second, the trucks traveling across the bridge today are far heavier than those operating at the time the bridge was constructed. Third, the bridge was designed to carry 75,000 vehicles a day, not its present daily volume of over 160,000 vehicles, including 17,600 heavy trucks.

Under these traffic loading conditions, the maintenance and rehabilitation needs of the bridge will only increase. Consultants hired to investigate the condition of the bridge and identify necessary repairs determined in a May 1994 report that the bridge was in fair structural condition with problems common to a structure of its age. The report found that prohibiting heavy truck travel across the bridge would potentially add an additional 40 years to the life of the bridge, if coupled with maintenance and major long-term rehabilitation work. The consultants concluded, however, that without a limit on heavy truck traffic, it would not be cost-effective to continue to rehabilitate the bridge beyond 2003, the end of its useful service life, because repair costs would rise dramatically and the reliability and safety of the bridge could potentially be compromised. They also predicted that intolerable traffic, safety, and air quality impacts would result if the bridge were closed for extensive periods to rehabilitate the structure. They therefore recommended the complete replacement of the bridge if it is to carry truck traffic beyond 2003.

EFFORTS TO EXPLORE POTENTIAL SOLUTIONS

The FHWA has been working with the District of Columbia, Maryland, Virginia, the metropolitan planning organization, local officials, concerned citizens, and others, in exploring potential solutions to these structural, operational, and capacity problems.

In 1988, the FHWA initiated the Woodrow Wilson Bridge Improvement Study to examine capacity expansion options. More than an internal FHWA study group, the Improvement Study also included representatives from the District, Maryland, and Virginia. The group's initial project was a concept competition to develop possible alternatives to the existing structure. We prepared a draft Environmental Impact Statement (EIS), and after several scoping meetings, a "no build" and 6 other design alternatives were identified. We held alternatives workshops and public hearings in 1991 in Maryland and Virginia to address comments on and concerns with the draft EIS, but opposition arose to key aspects of the alternatives outlined in the draft EIS.

To resolve this impasse, the FHWA invited area transportation officials and elected representatives to serve on a new Coordination Committee, whose mission was to identify a solution which enhances mobility while assuring that community

and environmental concerns are addressed. The Committee represents a broad range of interests, including the National Park Service, the Transportation Planning Board of the Metropolitan Washington Council of Governments, local elected officials, and the State and D.C. legislatures and transportation agencies. In November 1993, the Committee opened the Woodrow Wilson Bridge Study and Design Center in Alexandria, initiating a new series of community-based activities and studies to increase public involvement. This office is a key resource for members of the public seeking information on the Committee's activities and those wishing to voice their concerns and comments.

This expanded public outreach process began in January 1994 and will continue throughout 1995. Citizen work groups have been formed to ensure that individuals interested in or potentially affected by bridge improvements are included in debates on such issues as: environmental impacts, housing and neighborhood preservation, trucking and commerce concerns, accommodation of public transit facilities, and integration of any reconstruction proposal into the long-range regional transportation plan. The study management team worked with these citizen groups to develop 350 potential solutions, and last fall, the Coordination Committee selected 17 crossing options, based in part on citizen ideas. After further analysis, they narrowed the alternatives down to eight possible crossing designs-with a maximum of 12 lanes: a tunnel-only option, three different combinations of bridge and tunnel structures, a drawbridge along the alignment of the current bridge, a double-decked bridge along the current alignment, a southern alignment high bridge, and a "no build" option. As part of all of these alternatives, we are studying various transportation system management and transportation demand management strategies such as carpooling, congestion pricing, and telecommuting. Short-term transit options that could be put into place immediately, as well as long-term transit solutions such as the construction of a light rail System, are also being explored.

While congestion mitigation activities, restrictions on truck travel, and renovation of the existing structure would certainly provide some short-term relief, most parties view a new crossing as the strongest long-term solution. The process of identifying the most promising alternatives will continue to emphasize a broad-based, consensus-building approach. In the coming months, the Woodrow Wilson Bridge Improvement Study will be conducting meetings with citizen work groups and hosting public workshops at various locations throughout the affected communities. Existing project alternatives will be reviewed, and ideas for improved alternatives examined. It is anticipated that this process will reveal a preferred alternative as early as this fall. Work on a supplemental draft Environmental Impact Statement also continues and is scheduled to be completed in September.

The Interstate Study Commission (ISC), established by ISTEA to recommend new methods to fund, develop, and manage the national capital region's Interstate highways and bridges, recently issued its report. In it, the ISC recommended the establishment of an independent authority to own, construct, operate, and maintain a new Potomac River crossing. It also recommended that this authority have the power to issue bonds and collect, tolls, but not to levy taxes. The ISC expressly advised that the authority not be "activated" until Federal funding for the construction was secured.

We share this concern for securing adequate funding for the construction of a new Potomac River crossing. We also recognize that if the States choose not to accept ownership of the existing bridge, through an authority or other means, the Federal Government must be prepared to act. We at the Department will be ready. Assuming adequate Federal funding to complete the work, we anticipate that the ongoing environmental impact analysis will be finished, and a preferred alternative identified, on schedule. Consultants have estimated that the cost to replace the existing structure with a new 6-lane bridge would be about $225 million, but this simple replacement would not solve many of the capacity and congestion problems attributable to the existing 6-lane structure. If the Congress chooses to make additional funding available, the preliminary analyses show that the construction costs of a 12-lane bridge or tunnel structure, including necessary approach roadways, would total approximately $1.2 to $2 billion.

In the absence of Federal funding to reconstruct the bridge, the FHWA would continue to take all steps necessary to ensure that the structure remains safe. For example, restrictions on heavy truck traffic could be imposed, with large trucks rerouted around the bridge. We recognize that this is the least desirable option, because traffic diversion will occur, resulting in congestion on alternative routes and substantial economic impacts on shippers, truckers, and nearby communities.

INNOVATIVE FINANCING INITIATIVES

Let me change subjects now, because of the Committee's interest in innovative financing techniques and because of that subject's relevance to the debate over the future of the Woodrow Wilson bridge.

Developing financing innovations was one of the primary objectives outlined in Secretary Peña's Strategic Plan for the Department established over one year ago. In March 1994, Administrator Slater established "Innovative Financing" as a Test and Evaluation project under Section 307 of title 23, United States Code. With this designation, the FHWA sought to build on the financial options made available under ISTEA by establishing a track record of successful project financing. This initiative is bringing real world projects to fruition. It also has identified where changes are needed to make financing work. This includes changes in policy, practice, regulation, and legislation.

Essentially, the FHWA asked States to come forward with their best ideas as to how we might make the Federal dollar go further through leveraging and how we could work together to accelerate project construction. The response was overwhelming. Within a short while, we had over 60 projects submitted from 29 States. More followed and they continue to come in, now that States realize we are committed to this effort and they begin to see the results from the initiative. At this time, the FHWA is responding to project proposals, working with the States to develop financing plans, implementing management changes, and developing regulatory corrections.

Transit grantees are also being encouraged to consider innovative financing techniques. To this end, the Federal Transit Administration (FTA) published a notice in the *Federal Register* last September soliciting project proposals and ideas from transit operators, States, and the public and private sectors on how we can stretch our scare Federal resources. The FTA has been reviewing that information and particularly wants to identify obstacles to the innovative financing of transit capital or operating needs, as well as local proposals to demonstrate or test innovative financing mechanisms.

In addition, the Federal Railroad Administration (FRA), in cooperation with FHWA and FTA, is working to advance over 60 rail projects. These projects demonstrate public/private cost sharing for construction of intermodal terminals, relocation of rail lines, bridge clearance projects, and grade crossing separation/elimination. A common thread in the majority of projects is the positive impact on congestion mitigation and air quality, particularly in areas of non-attainment. FRA's *Federal Register* notice on innovative financing was also issued last September.

By employing a number of the financing techniques highlighted by the Department's innovative financing initiative, we believe that the replacement of the Woodrow Wilson bridge can be financed with negligible overall impacts to the Federal budget, and that there are numerous options for achieving this. The independent Authority proposed by the Interstate Study Commission I mentioned earlier offers one of the better vehicles for employing financing techniques designed to minimize budget impacts. The innovative financing concepts that have been identified by States under our Test and Evaluation project are, in fact, better used with a non-Federal owner of the facility.

Also available are a variety of construction financing concepts designed to employ private capital while also deferring costs to the public until the new facility is in service. We have found that construction financing techniques used in the private sector can offer expedited construction. I think that we all recognize that delays in commencing construction of a new Potomac River crossing can only lead to increased expenses on the existing bridge, an escalation in construction costs, and a deferral of service improvements to the traveling public. Also, since we expect the replacement bridge to redress many of the concerns of adjacent land users through environmental mitigation, expedited construction will benefit everyone.

Based on experience, we have identified some concepts that may be worth considering in financing the reconstruction of the Woodrow Wilson bridge. Some examples include:

- Creating an authority by interstate compact with the three jurisdictions, Maryland, Virginia, and the District of Columbia being the principal members. This authority would be empowered to issue bonds to develop a source of financing for the new facility. Costs would be paid by fees collected for use of the facility.
- Leasing the facility to either a public/private partnership or private entity which would be empowered to collect fees and finance construction in the private financing markets. This approach could be combined with innovative State financing techniques, e.g., State bond guarantees to hold down the user fee costs.

- Expanding the range of financing alternatives available to the States. of Virginia and Maryland and the District of Columbia, or an interstate authority, by expanding the loan repayment sources in ISTEA's Section i012 to non-toll dedicated revenue streams.
- Transferring the bridge to a non-Federal authority with the Federal Government providing financing through credit reform procedures through the Treasury.
- Transferring the facility to an authority with the Federal Government contributing up to the cost of replacement of the facility as it exists today, with the authority financing any enhancements through borrowing using options outlined in the prior discussion.

After the new bridge has been paid for, ownership can be transferred to the District and the States or left in the hands of the Authority.

As our study and outreach continue, other options will likely emerge that can be added to this list. In fact, our initial projects have sparked so much interest among State and local governments and the private sector that we are also exploring legislative initiatives to codify the improvements the States seek and to help further leverage scarce public funds for transportation projects. We look forward to working with this Committee and all interested parties to find an appropriate solution for the Woodrow Wilson bridge and to develop an array of innovative financing techniques for use nationwide.

The fact that the Woodrow Wilson bridge is on the proposed National Highway System further underscores the importance of the bridge as a national route linking workers to expanded job opportunities, manufacturers to consumers, and our regional economy to the national and world marketplaces. Our efforts to address the bridge's current problems exemplify the role the NHS will play in strategically guiding the investment of our limited public tax dollars in this and other key segments of our Nation's transportation system.

CONCLUSION

This concludes my prepared remarks. I understand, Mr. Chairman, that you have introduced legislation on the Woodrow Wilson bridge, S. 668, the National Capital Region Interstate Transportation Authority Act. We would be happy to work with you as that legislation is being considered. Of course, we also look forward to helping in every way we can to ensure approval of the NHS so that funds can be distributed to the States as scheduled on October 1. At this time, I would be pleased to answer any questions you may have.

December 1994

U.S. Department
of Transportation
**Federal Highway
Administration**

REBUILDING AMERICA: *PARTNERSHIP FOR INVESTMENT*

Our Nation will achieve the greatest benefits from its infrastructure facilities if it invests wisely and continually improves the quality and performance of its infrastructure programs...Consistent with the public interest, agencies should work with State and local entities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

President Clinton
January 26, 1994

REBUILDING AMERICA: *PARTNERSHIP FOR INVESTMENT*

Our Nation will achieve the greatest benefits from its infrastructure facilities if it invests wisely and continually improves the quality and performance of its infrastructure programs....Consistent with the public interest, agencies should work with State and local entities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

President Clinton
January 26, 1994

FOREWORD

This report summarizes the efforts and progress made to date by the Department of Transportation (DOT) and focuses specifically on the Federal Highway Administration's (FHWA's) implementation of important financing initiatives in President Clinton's Executive Order 12893 of January 26, 1994. The purpose of the Executive Order is to enhance existing programs and to develop more effective investment in infrastructure. FHWA established the *Innovative Financing—Test and Evaluation Project (TE-045)*, referred to here as the *Innovative Financing Initiative*, in order to identify existing transportation financing barriers and to advance innovative financing mechanisms that would increase highway investment. The initiative asks State and local governments to identify specific projects which could be advanced through new ways of financing. This document is organized as follows:

- *Section 1* gives an overview of the *Innovative Financing Initiative*.
- *Section 2* discusses in detail the emerging financial strategies, covering traditional approaches, the increased flexibility provided by the Intermodal Surface Transportation Efficiency Act (ISTEA), and the new horizons for innovative financing in the coming years. It also provides examples of the ways in which various States propose to apply new financial strategies for leveraging Federal and State funds and increasing infrastructure investment.

TABLE OF CONTENTS

SECTION 1: OVERVIEW

DEPARTMENT OF TRANSPORTATION INITIATIVES 1
A Message from the Secretary of Transportation 1
Transportation's Role in the Economy 1

FHWA INNOVATIVE FINANCING INITIATIVE 5
A Word from the Administrator 5
Results To Date 6
Findings 6
Next Steps 7

SECTION 2: EMERGING FINANCING STRATEGIES

OVERVIEW 13

PROJECT RISK AND INNOVATIVE FINANCE 13

INNOVATIVE MANAGEMENT OF FEDERAL FUNDS 14
Phased Funding 15
Tapering 17
Advance Construction 18
Partial Conversion of Advance Construction 20

BONDS AND OTHER FORMS OF DEBT FINANCING 22

EXPANDED MATCHING OPPORTUNITIES 24
Flexible Match 24
Section 1044 Investment Credits 25

NEW LEVERAGING TOOLS—SECTION 1012 28

INNOVATIVE INCOME GENERATION 31
Public-Private Partnerships 31

SECTION 1: OVERVIEW

DEPARTMENT OF TRANSPORTATION INITIATIVES

A Message from the Secretary of Transportation

We have always been a nation in motion. Americans have moved further, gone faster, and made more progress in our short history than any other nation on earth. As we approach the next century, our transportation system remains critical to the well-being of the nation we have built together. Our economic future depends on upgrading our $2.4 trillion transportation system so that American workers and American companies can compete and win in the global markets of the 21st century. The stakes are enormous: every 1 percent gain we can make in national transportation efficiency translates into $1 billion in savings for our economy over a decade.

But in an era of continuing budget discipline at all levels of government, we cannot simply "spend our way out" of our transportation problems. We must find new ways to mobilize resources to meet the rising travel demands of a growing population and America's fast-growing global trade. We need to find creative ways to finance new infrastructure and to maximize the use of what we already have.

That's why, in early 1994, I ordered every element of the Department of Transportation to join in—and lead—a new Partnership for Transportation Finance. We asked States, cities, and private businesses across America to come forward with new and creative ideas—using a vast array of financial techniques—to fill the "investment gap" between America's public resources and Americans' transportation needs.

None of these projects could have gotten under way as quickly if we had relied only on traditional means of finance. But through this initiative, we will move transportation projects forward that might never have gotten under way. We will foster creative solutions to meet the challenge of increasing America's transportation investments at a time of limited Federal resources. And by igniting a real spirit of enterprise and creativity with public and private partners coast to coast, the DOT has answered Vice President Gore's call to "re-invent government" so that it "works better and costs less."

We have already made a promising start. But we mean to do more. These new partnerships, this use of innovative finance, this engagement of private business in meeting America's transportation challenges—all of these are here to stay. I applaud all those who have worked with us to make this initiative a success. And I encourage States, local governments, and private businesses across America to follow this example. Bring us your ideas. We are ready—and eager—to be your partner.

Federico Peña
Secretary of Transportation

Transportation's Role in the Economy

Transportation is essential to our nation's economic well-being. It plays a central role in creating jobs and stimulating lasting growth for the nation and, at the same time, enhances the country's international competitiveness. The important link between a healthy economy and a sound transportation system is reinforced by the increasingly global economy, greater reliance on efficient inventory systems, growing demand for travel, and the added economic cost of an aging infrastructure. Together these changes have revealed the need for additional investments and new investment strategies for the nation's transportation infrastructure in order to ensure efficiency and to remain competitive.

ISTEA declares that an integrated, seamless transportation system will be "the centerpiece of a national investment commitment

to create the new wealth of this nation in the 21st century."

Importance of Transportation

The evidence of transportation's importance to the economy is documented by the following economic and societal factors.

- In order to compete globally, companies are demanding production efficiency. By 1995, it is estimated that more than half of U.S. manufacturers will be using just-in-time inventory systems. This inventory approach requires support from a unified transportation system.
- Other countries realize the necessity of improving transportation infrastructure. Japan and other governments in Asia will spend upwards of $1 trillion on infrastructure by the end of the century. Governments in Europe are spending $1.5 trillion on a continent-wide system of high-speed rail and motorways.
- Congestion imposes a staggering and unacceptable cost on our nation. Commuters in the country's 50 largest metropolitan areas experience congestion delays with an estimated cost of $43 billion annually in lost time and fuel alone.
- Each $1 billion invested in transportation produces more than 25,000 new construction-related jobs and eases bottlenecks that slow commuters and commerce alike.
- Each person in the United States spends an average of $2,500 per year on personal transportation. The United States as a whole spends nearly $1 trillion per year—17 percent of the gross domestic product—on transportation services.

Delaying improvements increases future costs and adds a variety of costly economic burdens. For example, deferred maintenance adds as much as 40 percent to the per mile cost of operating vehicles. Deferring $1 in highway resurfacing can impose up to $4 in additional reconstruction costs in just two years. Improvements can increase costs resulting from accidents and traffic delays as well as costs associated with environmental problems, such as air and water clean-ups.

Funding Challenges

Today's transportation-related funding challenges are more diverse and fundamentally more complex than in the past, when the challenge for the transportation sector was straightforward: design and construct the Interstate Highway System. Because traditional government sources simply cannot provide sufficient funds to meet current transportation infrastructure needs, new approaches and financing mechanisms must be developed and implemented to use Federal transportation dollars more effectively. Addressing the growing disparity between the increasingly complex needs of America's transportation system and the current level of investment in the system is the challenge for transportation today. It is a challenge shared by the Federal, State, and local governments as well as the private sector.

The *Innovative Financing Initiative* is carrying forward actions that ISTEA authorization initiated in 1991: to make use of multiple financing strategies, to bring the experiences of other public and private finance programs to bear on transportation finance, and to encourage new partnerships between Federal, State, local, and private investment funding sources.

Context

President Clinton's Executive Order 12893, *Principles for Federal Infrastructure Investments*, establishes infrastructure investment as a priority for the Administration and directs agencies to establish programs for developing more effective investment from current federal funds.

Executive Order 12893 of January 26, 1994
Principles for Federal Infrastructure Investments

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources....Each executive department and agency with infrastructure responsibilities shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of infrastructure programs.

President Clinton
January 26, 1994

The President's commitment to transportation infrastructure is tangible. In a time of deficit reduction and budget caps, the President's budget submission to the Congress increased the 1995 transportation budget by 3 percent over 1994, and by 15 percent over 1993.

In response to concerns of the Administration, Congress, and the States, a series of major evaluations of infrastructure investment was completed in 1993. Included were the report of The Commission to Promote Investment in America's Infrastructure, the *National Performance Review*; the report of the U.S. Advisory Commission on Intergovernmental Relations, *High Performance Public Works*; the 1993 DOT report, *Highways and Transit Conditions and Performance: Report to Congress*, and the ISTEA Commission's *Infrastructure Investment Commission Report*. In late 1994, the National Commission on Intermodal Transportation completed *Toward a National Intermodal Transportation System*, a Congressionally mandated report based on input from hearings held in 11 cities across the country. It, too, identified finance as a top priority.

Beyond simply confirming the critical role that infrastructure investment plays in supporting the nation's economy, each report shared similar conclusions. Most noteworthy were the following common observations:

- A great number of investment needs are unmet;
- Forecasts of future investment plans are pessimistic; and
- Funding pursuant to traditional Federal grants will be insufficient to address these shortfalls.

Although the issues identified throughout these reports were similar, the solutions they recommended varied.

DOT Task Forces

DOT has taken the initiative in responding to President Clinton's Executive Order. Recognizing the transportation-related impacts of a changing business and economic environment, DOT has established strategic goals to meet the new challenges. One of the primary goals is to develop a strategy to repair, re-build, and maintain intermodal transportation infrastructure, including highway, rail, transit, and aviation projects. DOT's initiative is also designed to develop a comprehensive, continuing program for financing transportation infrastructure, including expanded use of innovative mechanisms and private sector investment to leverage the benefits of Federal investment.

In addition, the Secretary of Transportation established a task force in each modal administration. While recognizing the varying mission of each modal administration, these task forces identified the following areas for focus:

- Identify Federal financing methods, in addition to grant programs, that more effectively support the formation of public and private sector capital targeted to transportation;
- Evaluate the potential effects of DOT's participation in proposed infrastructure "banks," revolving funds, subordinated loan programs, asset-backed securities, credit pools, and other credit concepts;
- Identify any unmet or unaccommodated institutional investor needs which may limit the supply of investment capital for infrastructure (pension fund investments, rating agency needs, and, possibly, mutual fund insurance fund investments); and
- Review grant administration procedures, policies, and regulations, to ensure that grant monies support and complement the leveraging of private capital in projects.

Several of the modal administrations in DOT have been addressing innovative finance issues. Events to date are summarized in the table below.

Innovative Financing Initiatives

Agency	Federal Register Notice	Response Due Date
Federal Highway Administration	April 8, 1994	April 29, 1994
Federal Railroad Administration	September 23, 1994	November 15, 1994
Federal Transit Administration	September 12, 1994	December 30, 1994
Federal Aviation Administration	Anticipated December 1994	30 days after publication

FHWA INNOVATIVE FINANCING INITIATIVE

A Word from the Administrator

At the Federal Highway Administration, we are trying something new. As part of the Department of Transportation's commitment to stimulate infrastructure investment, FHWA is breaking ground for DOT's innovative financing efforts. In March, I announced the Innovative Financing—Test and Evaluation Project (TE-045) through which we will work with the States to explore strategies that encourage increased investment in transportation-related infrastructure. The initiative was published in the Federal Register on April 8.

Why the initiative and why now?

In response to President Clinton's vision of long-term economic prosperity through infrastructure investment and fulfillment of the Secretary's strategic plan, we are taking a proactive approach to stimulate investment in the nation's highways, bridges, and other facilities eligible for Federal highway funds. By working with the States to identify and overcome barriers to the financing of transportation-related infrastructure, we will improve the odds and decrease the cost of highway investments by ensuring the use of all available innovative finance tools.

What are we trying to achieve?

The TE-045 Innovative Financing Project has four immediate goals: (1) to move projects into construction more quickly than under traditional financing procedures; (2) to create incentives for States to take full advantage of ISTEA financial opportunities; (3) to assist States in their efforts to leverage their current spending to produce additional capital investment, both public and private, for transportation; and (4) to create a record of achievement by advancing projects that will develop a base of knowledge and help frame future legislation to provide more ways for State and local projects to proceed with optimal financing.

What will this initiative mean for transportation financing and for you?

I am confident that the Innovative Financing Initiative will increase investment in transportation infrastructure, with near-term benefits for commuters, commerce, and employment. While the initiative will advance a number of projects which otherwise would be delayed, as a pilot program, it is only a beginning. The results of this pilot, however, will be used to inform future policy decisions regarding the most promising areas for increased financing flexibility and thus will have long-term benefits of much greater magnitude.

As a former State Highway officer, I recognize how challenging it is for new financing concepts to be implemented at the local level. The Innovative Financing Initiative is designed to establish a track record of success with a number of targeted projects from which the transportation community can learn. These projects can serve as examples to stimulate new innovative ideas that reduce additional financial barriers.

For transportation professionals and finance officers, that will mean more projects can get under way sooner, with job creation and economic benefits. And for the financial community, it will mean more investment opportunities and support for an improving economy.

Rodney E. Slater
Federal Highway Administrator

Results To Date

The provisions of ISTEA and Title 23, and innovations in the world of finance served as the basis for FHWA's *TE-045 Innovative Financing Project*. Just a few years ago, virtually everyone believed that highway infrastructure could be provided only by the public sector and financed almost exclusively on a "grant reimbursement" basis with Federal tax dollars. (The Federal government reimburses States on a matching basis—usually 80 cents for each dollar spent—for project expenditures.)

Reliance on a single financial strategy for highway investment has not allowed transportation to keep pace with the Nation's needs in a growing economy. There is increased recognition that States must use multiple financing strategies in a manner similar to the commercial markets. Since supporting transportation users in the private sector segment of the economy is a prime goal of transportation, keeping pace with its development and participating in new plans for economic development requires use of similar financing tools. FHWA established the *TE-045 Innovative Financing Project* to explore potential new financing strategies designed to augment the traditional approach, drawing on the expertise of State officers and the private sector investment community.

With this initiative, FHWA hopes to demystify the financial options made available by ISTEA and Title 23 of the U.S. Code (U.S.C.) by building experience with innovative project financing. To do this, FHWA will not only clarify for States what is permissible under current law and make guidance more flexible but will also create incentives for State DOTs, State financial officials, and private investors to invest in transportation infrastructure. FHWA intends to make full use of its regulatory and statutory flexibility to facilitate those projects that best leverage Federal funds.

The responses to FHWA's solicitation have been extremely positive and have provided insight into how new ideas can yield a new era of transportation finance. The level of response also reveals the willingness of State and local governments to undertake these issues. To date, 29 States have submitted 60 project proposals. These projects offer innovative solutions to overcome common financial barriers. The creativity of the responses provides insight into how transportation finance may evolve in the future.

Findings

Several key points emerged during the evaluation of the States' project proposals. These points are categorized under the four subheadings below.

Fees and Charges

There is greater than anticipated willingness to levy local fees and tolls to provide the funding necessary to accelerate project construction in a targeted area. Many States propose such charges as local option gas taxes and development impact fees. States support this equitable mechanism because local economic initiatives often require greater transportation infrastructure support.

Credit Support

States respected the FHWA ground rules of no "new money" for this phase of the initiative. States also indicated that if additional Federal funds were available, then they were prepared to use the funds in new and innovative ways. In addition, "loan guarantees" are much less in demand than expected. However, a much greater interest was expressed in various Federal "credit support" concepts, such as lines of credit, credit enhancement, and project-specific loans. These concepts are particularly important during the riskier periods of construction and initial operation of a project. There is also an evident need to provide particular assistance to projects that are targeted towards interstate commerce or that have multi-State benefits.

One option identified by a number of States is a Federal-level revolving loan fund secured with future apportionments of formula funds from the Highway Trust Fund.

Establishment of State-level revolving loan funds for county, city, and transportation authority projects is also desired, if the States can maintain their current levels of construction activity while capitalizing the funds. Requests for credit support also reveal explicit demand to expand the capacity of the traditional "grant reimbursement" program to serve as a project "construction financing" program, as seen in private development projects.

Policy Changes

There is a demonstrated need to modernize and standardize obligation and outlay rules to smooth the role of Federal money in the construction stage of projects. In particular, the States recommend that FHWA permit, encourage, and support State-issued "anticipation notes" to help improve project cash flow and to foster additional project starts. The current reimbursement practices lead to "serial" instead of "parallel" construction methods and, therefore, create a bias against starting larger projects due to single-year obligation constraints.

Compared with traditional approaches, the share of Federal and State money in many project proposals is reduced, and the share of local and private capital is increased, again allowing more projects to proceed sooner. In support of this, States asked that the definition of "non-Federal match" have greater flexibility, to allow more than just State cash expenditures and, for instance, give credit for private capital and assets, as well as for local, authority, and district financial participation, on a direct basis.

Assisting States

As States contemplate using bonds and other debt instruments for project finance, they may need assistance in addressing rating agency and debt market concerns regarding authorization risk, appropriation risk, trust funds, contract authority, and budget authority. FHWA might also provide additional assistance to States by enhancing credit in cases where States are willing to begin tolling, including, for example, allowance of a rate covenant and pledge of revenues to pay debt service.

With FHWA support, States propose to take greater advantage of the financial opportunities available under ISTEA, such as

- The creation of revolving loan funds;
- Greater private sector involvement in building, maintaining, and operating toll roads and bridges; and
- Flexibility to match Federal funds through investment credit provisions.

Next Steps

To advance towards the goal of promoting additional investment opportunities in highway financing, FHWA will continue to accept proposals from and coordinate with State transportation officials. Using the knowledge gained from Phase 1 of the *TE-045 Innovative Financing Project*, FHWA will implement Phase 2, in which it will evaluate and approve additional projects for implementation. FHWA will use the findings from both phases to examine the current operating framework and update regulations or guidance. In the near term, where administrative discretion allows and where the results suggest that a change in the regulatory framework will improve transportation, FHWA will make administrative, policy, and regulatory changes. In the longer term, FHWA will recommend and advance legislative changes in the ISTEA reauthorization cycle or sooner, as appropriate, subject to discussion with Congress.

Timeline for FHWA Innovative Financing Program 1994 First Round

JAN — President Clinton issues an Executive Order, *Principles for Federal Infrastructure Investment*, which directs the Federal agencies to establish programs for developing more effective infrastructure investment.

FEB — In response to President Clinton's Executive Order, Secretary Peña establishes the Department of Transportation's Innovative Financing Task Force.

MAR — FHWA Administrator Rodney Slater establishes FHWA task force on innovative highway financing and launches the *Innovative Financing- Test and Evaluation Project* (TE-045).

APR — Coordination of TE-045 with FHWA Regional and Division Administrators and field staff.

MAY — FHWA conducts an outreach program aimed at State DOTs, Transportation and Toll Authorities, State Financial Officials, Investment Banks and Financial Advisors.

JUN — State DOTs use ideas collected for the Finance and Transportation community to develop project proposals using Innovative Financing. States submit proposals to FHWA.

JUL — State DOTs work with FHWA to refine proposals.

Congressional testimony on Innovative Finance.

FHWA symposium held to support outreach and discuss proposals.

AUG — FHWA reacts to State DOT proposals and works with the DOTS to refine proposals.

SEP — FHWA evaluates final proposals and issues letters of approval.

OCT — Implementation begins.

STATES PARTICIPATING IN THE FHWA INNOVATIVE FINANCING PROGRAM

SECTION 2: EMERGING FINANCING STRATEGIES

92-534 O - 96 - 7

OVERVIEW

The *TE-045 Innovative Financing Project* initiative is the first stage of a new effort by FHWA to move the current transportation financing process from a single strategy of Federal funding on a "grant reimbursement" basis to a diversified approach that provides new options drawn from the most innovative financing concepts developed by both the public and the private sectors. By creating incentives and removing barriers, FHWA hopes to increase States' use of the flexibility introduced under ISTEA. A prime objective is to maximize the ability of the States to leverage Federal capital for needed investment in our nation's transportation system.

The response to *TE-045* has surpassed all expectations. A number of States have proposed innovative financing strategies that will improve investment in highways and bridges. FHWA, working with the States, is refining those proposals that advance emerging financial mechanisms and enhance its current highway funding process. The various financing innovations developed to date fall into five categories:

1. Innovative management of Federal funds;
2. Bonds and other forms of debt financing;
3. Expanded matching opportunities;
4. New leveraging tools, including revolving funds; and
5. Innovative income generation.

Any discussion of these techniques requires an understanding of the nature of risk and how it affects project financing.

PROJECT RISK AND INNOVATIVE FINANCE

Several of the innovative financing tools proposed under FHWA's innovative finance initiative will help manage, reduce, or negate the perceived risks associated with highway finance. For the purpose of developing an optimal financing plan, project risk can be divided into three stages: (1) preconstruction, (2) construction, and (3) operation. In many situations, a plan of finance targeted for each stage will often minimize costs because each can be tailored to the unique interests of different types of investors seeking different investment risk/return tradeoffs. Establishing a financing plan for each stage helps to avoid a "high-risk" profile for an entire project.

- *Preconstruction:* Preconstruction includes project design; planning and cost estimation; environmental, economic, and other impact assessments; and right-of-way acquisition for a project. The greatest uncertainties and financing risks are found at this time. Because of these uncertainties, the capital markets often regard this stage of project execution as highly speculative. Thus, financing for expenditures can be difficult for a State to secure before construction. If a State is able to secure financing at all, it may be available only at much higher interest rates than would be required for financing at later stages of the project.
- *Construction:* The construction stage of a project has more definable financing risks. Although a project in the construction stage will have undergone environmental assessments and design studies, there is still a possibility that problems will arise with construction logistics and costs. In addition, while there is great investor interest in financing at this stage of project development, often these investors do not seek to tie up their capital for the long term. In addition to the *Innovative Financing Initiative*, FHWA has also launched an *Innovative Contracting Initiative*, to facilitate and expedite projects during the construction stage.

- *Operation:* Comparatively, the operational stage of a project presents the least financing risks. During this stage, the only significant risks may be whether or not projected levels of traffic and revenue will be achieved.

INNOVATIVE MANAGEMENT OF FEDERAL FUNDS

Traditional Funding

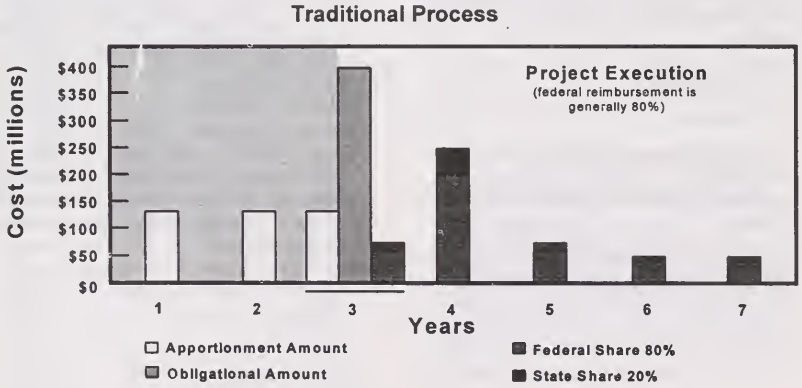
Under traditional funding procedures, the share of Federal funds for a surface transportation project is not differentiated by stage of project development.[1] Thus, a State may have difficulty funding the completion of needed feasibility studies and environmental assessments. This could be problematic if the State hopes to bring the project to the private capital markets.

States also have been required to have enough obligational authority to cover the entire Federal share of a Federal-aid project before construction starts. For example, if a State has available only $133 million in apportionment amounts (Federal funds) and obligational authority (authority to commit)[2] each year and wants to execute a $500 million project, of which the Federal share would total $400 million, the State would have to limit Federal funding for the project or build it in phases.

This approach tends to impede construction of large-scale projects because of the number of years it takes for States to reserve the full obligational authority needed before construction can commence. Also, to reserve sufficient obligational authority for a large-scale project, a State would have to delay Federal reimbursement on smaller-scale projects. For example, States generally would prefer to obligate $10 million to a project that can begin construction and show visible results in the same year, rather than postpone smaller projects and set aside their obligational authority for a $100 million project. This may occur even if the larger project would have substantially greater benefits.

[1] For more information about the Federal-Aid Highway program, see Federal Highway Administration, *Financing Federal-Aid Highways*, Publication No. FHWA-PL-92-016, May 1992.

[2] Obligational authority is usually less than the apportionment amount, due to congressional ceilings.



The requirement that States set aside obligational authority before beginning construction also presents difficulties for States interested in beginning several large projects simultaneously. For example, if a State had $300 million in obligational authority each year and wanted to begin two projects costing $200 million each, it could begin only one of the projects, even if the project expenditures would occur over several years. Developing constituent support for a State-wide transportation plan can be enhanced if projects can be developed more effectively in parallel.

ISTEA/Innovative Finance

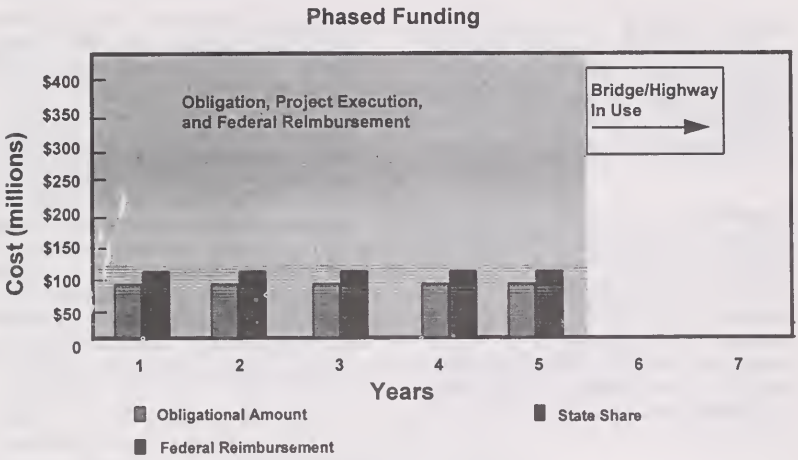
As a result of the programmatic changes defined in ISTEA, policies regarding the timing and administration of Federal funds can now increase States' ability to finance transportation projects. New consideration is being given to innovations that will remove procedural barriers to project finance, with the goal of improving the ability of State and local governments to leverage Federal funds more effectively, thereby accelerating projects and avoiding increasing costs. At the core, these innovations seek to provide States with more options for using their Federally apportioned money to match both the States' and the private sector's needs. Included under the *Innovative Financing Initiative* are the following:

- Phased funding;
- Tapering;
- Advance construction; and
- Partial conversion of advance construction.

Certain of these techniques have been available (although used sparingly), as alternatives to the traditional process, but they need to be updated or redefined to fit in with the full range of project finance tools that are becoming available. Others have been proposed by States in response to the FHWA's innovative finance initiative. The flexibility and improved cash-flow management provided by these innovations will help States begin a greater number of projects, expedite project construction (thereby delivering transportation economic benefits earlier), and manage capital for larger projects which take time to develop.

Phased Funding

Phased funding allows States to begin projects before they have accumulated the full budget capacity to cover the Federal reimbursement of total project costs. Under *phased funding*, States can obligate an amount of Federal-aid Highway (FAH) funds in each year of a project equal to the estimated construction expenditures in that year. This would permit a State to begin two large projects at once, as long as sufficient budget capacity is available to cover reimbursement for construction expenditures in each year. *Phased funding* will assist in accelerating a project. In order to use *phased funding*, the State must enter into an agreement with FHWA that commits the State to completing the project. Under *phased funding*, where a State does not yet have full budget capacity, FHWA and the State share the funding risks involved in preconstruction and construction. This is in contrast to the traditional approach, where a State must set aside the entire amount of obligational authority required for a project in order to shelter FHWA from what might otherwise be undefined risks.



Application of Phased Funding

In order to improve transportation to a geographic area isolated by waterways, one State proposed that FHWA permit *phased funding* for construction of a second bridge. The existing bridge provides an insufficient level of service because road traffic is stopped periodically during the day to allow marine traffic to pass. These stoppages, on average four to five per day, impair commerce and leave the area isolated from emergency facilities.

The cost of this single project represents over 30 percent of the State's annual allotment of Federal funds for this type of project. Although staged construction was explored as an option for managing funds, the nature of the project was such that it could not be subdivided into a variety of construction contracts. More importantly, though, the State has indicated that a 5 percent savings in project costs could be realized by structuring a single construction contract if *phased funding* were approved.

Innovative financing techniques will permit completion of this project several years earlier than would have been possible with conventional funding approaches. By building the bridge earlier, the State will avoid construction cost inflation and will therefore realize significant savings. Based on current benefit/cost ratios for highway projects, FHWA estimates an overall return to the economy of 15 percent on average for each year a project is advanced.

New Horizons for Innovative Financing

Historically, *phased funding* agreements have been limited to Interstate completion projects and could not extend beyond the current highway bill reauthorization. Also, Federal reimbursement has not extended beyond the project's construction period.

Upon completion of the *Innovative Financing Initiative*, FHWA will assess the value of making *phased funding* available to projects other than Interstate completion projects and possibly, on a targeted basis, across authorization periods. For example, it is possible that *all* maintenance projects should be eligible for *phased funding* since it has been shown that delayed maintenance is very costly. Also, a class of large-scale, high-priority projects which significantly increase leveraging of Federal funds by

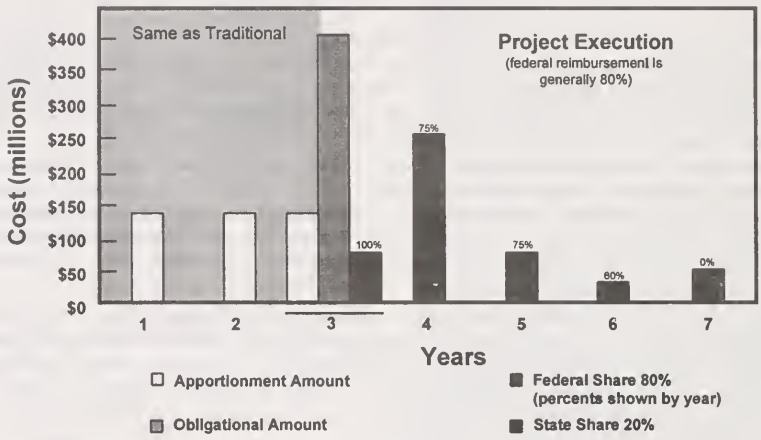
attracting additional private and/or local capital might justify taking the risks perceived to be associated with expanding eligibility for *phased funding*. Once defined, implementation may require changes in policy, regulations, or the authorization act.

Tapering

Tapering is an alternative means of making the Federal reimbursement to the States. Under this concept, the Federal share of the project may vary from year to year, as long as the overall Federal contribution does not exceed the Federal-aid limit. For example, the Federal contribution could start out at 100 percent and taper off to zero as the project nears completion. The figure below models this possibility for a $500 million project, where the Federal share is $400 million (80 percent).

Tapering may help shift, reduce, or otherwise negate the high financing risk found in the preconstruction stage and allow States to begin projects that may be feasible only after preconstruction activities are funded. Tapering has the additional benefit of allowing States to maximize the use of private capital to finance the remainder of the costs after the preconstruction stage, when the risk profile is lower and the pool of potential capital is likely to be larger.

Tapering the Federal Share



Note: Accumulation period can be eliminated by combining tapering with phased funding

Application of Tapered Funding

A series of existing toll bridges in one State requires major rehabilitation, including upgrading and capacity increases to serve projected growth in the area's traffic. While much of the cost of the project could be covered by toll revenues, it is unlikely that all costs could be recovered exclusively using revenue-backed debt financing. In addition, at this early stage of development, the projected increases in traffic are so uncertain that they have limited credit market value and therefore have limited potential for leveraging funds.

In order to evaluate a series of innovative financing options which are anticipated to include both public and private capital, as well as build-operate-transfer and build-transfer-operate options, the State proposed that Federal funds be permitted to cover the full costs of the financial feasibility analyses. Recognizing that the feasibility stage of the project is less likely to attract private capital than later stages, FHWA has approved the State's *TE-045* proposal to use Federal funds without a State match for this phase of the project. An effective feasibility study will increase the State's ability to attract private capital and/or use revenue bonds when appropriate. As a result, in the proposal, a direct connection was established between permitting an increased Federal share on the front end of project development and providing the possibility that it could be decreased on the back end, because there could be substitution of private capital.

Advance Construction

Through the concept called *advance construction*, a State can independently raise the up-front capital required for a project and preserve eligibility for future Federal-aid funding for that project. At a later point, the State can obligate FAH funds for reimbursement of the Federal share. This allows a State to access capital from a variety of sources, including its own funds and private capital in the form of anticipation notes, commercial paper, bank loans, etc. This technique also allows a State to build a transportation project that is eligible for Federal aid when the need arises, rather than having to set aside obligational authority for the Federal share. In order to receive future reimbursement for an *advance construction* project, a State must have FHWA "designate" the project and approve it as an *advance construction* project. However, the State itself can determine when to obligate funds for reimbursement of the project, by later "converting" the entire project to a regular Federal-aid highway project in a single year—assuming the State has the capacity to obligate sufficient funds for the full Federal reimbursement in a single year. This allows States to manage their FAH funds more effectively, by choosing when to seek reimbursement.

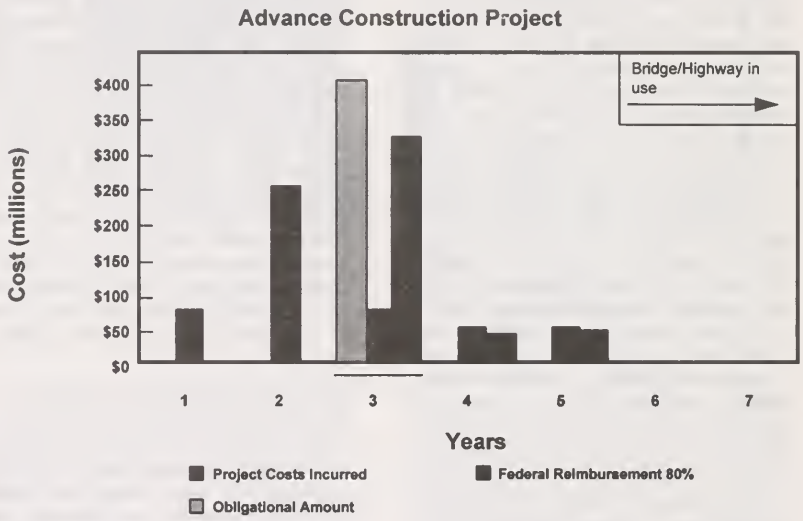
If a State is prepared to accept greater responsibility for managing project costs and funding, then using *advance construction* allows the State to deliver transportation benefits to the public earlier, to better coordinate transportation development with its other economic initiatives, and to preserve its eligibility for Federal aid. If a State chooses to finance *advance construction* through debt instruments on a National Highway System (NHS) project, it can also receive reimbursement for most, if not all, of the interest costs it incurs. (Current law limits the reimbursement for interest costs to the prevailing construction inflation rate.)

When used to the fullest, this approach can resemble the "construction finance" seen in private capital markets such as commercial real estate development, where a developer uses short-term debt to finance construction and then replaces the short-term debt with long-term debt after construction is completed and the building is ready to generate revenue or provide benefits to the public. Essentially, this approach can define the

Plan of Finance for construction separately from that for post-construction. This financial segmentation can lower a State's overall project costs by managing perceived investor risk and making use of short-term debt. If the State can combine *advance construction* with a public-private partnership, it can share some of the preconstruction and construction risks with the private partner. For example, a number of States are considering design-build-transfer arrangements for constructing projects.

Like phased funding, *advance construction* eliminates the need to set aside full obligational authority before starting projects. As a result, a State can start a greater number of concurrent projects under *advance construction*. Absent this concept, the requirement to set aside or "tie up" obligational authority years ahead of construction commencement can impede construction of other projects, particularly if the project represents a significant share of the State's annual obligational authority. *Advance construction* also permits construction of large projects without hampering smaller projects' ability to use Federal funding.

One drawback to *advance construction* is the need to set aside obligational authority for the full Federal share of project costs before "converting" the project and, thereby, receiving any Federal reimbursement funds. For example, suppose a State constructed a $500 million project, anticipating the $400 million Federal share to be paid out of the State's annual obligational authority. The State would have to set aside the $400 million of obligational authority necessary to convert the project from one financed exclusively with State funds to one receiving 80 percent Federal funding.



Application of Advance Construction

An Interstate highway requiring both resurfacing and the addition of two lanes will be advanced by four years as a result of a proposal submitted by a State under *TE-045*. The State proposed issuing "anticipation notes" in the private capital market to develop a source of funds. These funds will cover the period between construction and Federal reimbursement. The notes will be paid off once obligational authority has become available to the State.

Although the State was already preparing to construct parts of the identified corridor, it was deferring construction of sections because of limited funding. This would have presented users with a "bottleneck" in the flow of traffic for a number of years, preventing the State from realizing its significant potential for economic growth.

In effect, the fragmented construction in the corridor brought about by traditional pay-as-you-go funding would have reduced the benefit of the State's current investment in the other segments of this corridor. Approval of *advance construction* to complete the entire corridor provides two incremental benefits. First, construction of the additional segment will be completed sooner at lower cost. Second, completion of the additional segment will increase the value, and therefore deliver greater benefits, to users of the originally programmed investment by avoiding the creation of a bottleneck.

Other States have proposed that FHWA approve a package of projects for *advance construction*. This approach allows a State to develop statewide support for the highway program and economize on the issuance of "anticipation notes" through a larger offering.

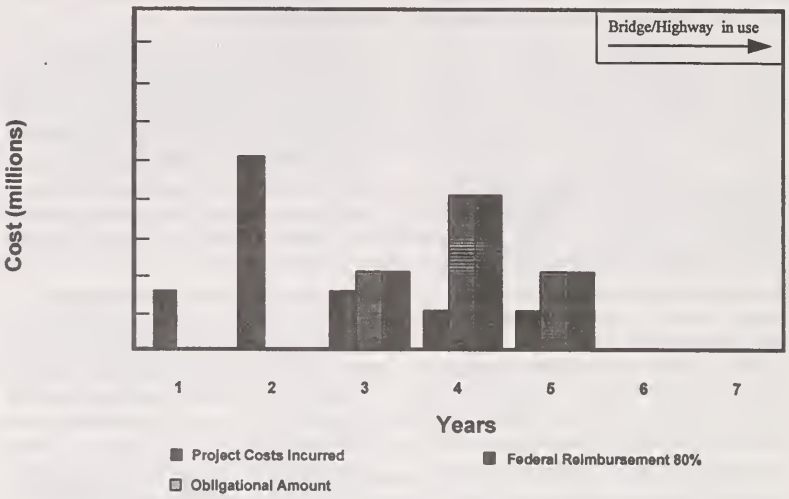
Partial Conversion of Advance Construction

Under *advance construction*, prior to a State's request to "convert" an *advance construction* project to a regular Federal-aid project, the State must have obligated the full Federal share of the project costs. The effect of this limitation on the construction of other projects was outlined in the section on *advance construction*.

Partial conversion of advance construction is a form of *advance construction* in which the State converts, obligates, and receives reimbursement for only part of its funding of an *advance construction* project in a given year. This removes any requirement to wait until the full amount of obligational authority is available. The State can therefore obligate varying amounts for the project's eligible cost in each year, depending on how much of the State's obligational authority is available.

In addition to securing project benefits earlier and improving cash flow to a State, *partial conversion* is particularly useful when a variable revenue stream is dedicated to the cost of a project (e.g., increment sales taxes, development impact fees, local option gas taxes, and tolls). In many of these situations, particularly when there is no revenue history (as is frequently the case with tolls), it is not clear at the time of construction exactly how much Federal funding is going to be needed by the project. For example, up to 50 percent of a local project's cost is eligible for Federal aid. Given the scarcity of Federal funds available to the State, though, there is a need to minimize the Federal funds required for any given project. Using the option to partially convert the Federal share after the revenues have materialized makes bond and note financing more viable and Federal-aid funds available to support a greater number of eligible projects.

Partial Conversion of Advance Construction



Application of Partial Conversion of Advance Construction

Although certain States have used the *advance construction* provision of Title 23 in the past, several pointed out that the traditional rules regarding "converting" the project under *TE-045* have limited the appeal of this technique. Other States have indicated that without the ability to partially convert these projects, the cash flow costs of delayed reimbursement may outweigh the potential benefits of conventional *advance construction*.

One State which has used *advance construction* in the past proposed that *partial conversion* be used to help it accelerate construction of additional HOV lanes in a highly congested area. In this case, the availability of *partial conversion* increases the willingness of the State's financial decision-makers to support interim funding of this priority project. This approach allows transportation officials to demonstrate reduced cash flow costs to the State compared with conventional *advance construction* techniques.

Another State has opted to use dedicated revenue sources (e.g., tolls, dedicated gas taxes, sales taxes) to cover its share of a project's costs. In some years, revenues from dedicated sources may exceed the State's targeted share of project costs. Under partial conversion, the State and FHWA can modify the Federal share of costs each year, allowing the State to apply any higher-than-expected revenues to offset project costs and thus free up Federal funds for other projects.

New Horizons for Innovative Financing

Several initiatives could emerge to facilitate greater use and usefulness of *advance construction*. One incentive being considered is to set eligible interest costs equal to interest incurred by the State for its share of the project or to the comparable interest rate on

Treasury notes for an equivalent time period. This would eliminate any need to forecast construction inflation indices. New instruments may also become available, including a construction loan program and increasing market acceptance of anticipation notes for *advance construction* projects.

BONDS AND OTHER FORMS OF DEBT FINANCING

Traditional Funding

Historically, few States have built Interstate projects with the aid of bond financing for project costs, for the State and the Federal share. This is, in fact, permitted in Federal bond provisions in Section 23 U.S.C. 122 and regulations in 23 CFR 140. These provisions allow the issuance of debt backed by agreements between FHWA and the project sponsor to use Federal funds for debt service. According to 23 CFR 140:

> An SHA [State Highway Agency] that uses the proceeds of bonds issued by the State, a county, city or other political subdivision of the State, for the construction of [eligible] projects may claim payment of any portion of such sums apportioned to it for expenditures on such system to aid in the retirement of the principal of bonds at their maturities, to the extent that the proceeds of bonds have actually been expended in the construction of projects.

Interest costs are eligible for Federal reimbursement on some Interstate projects. Although some outdated limitations need improvement, most States do not use the bond provisions of Title 23. Generally, States defer construction until pay-as-you-go funding has been accumulated or they use bonding only for the State share of project costs.

ISTEA/Innovative Finance

Under the *TE-045* project, FHWA and the States are exploring ways to expand the use of the bond market to leverage Federal investment in surface transportation, as has been done effectively in other modes. In addition, States have indicated that they may be able to obtain investment grade bond ratings, and therefore make greater use of bond instruments, if they can structure a predictable Federal funding stream beyond the end of the current authorization period. FHWA cannot guarantee authorizations after 1997, but the Federal-aid program has existed for decades and has established a proven record of trust-fund-based financial stability. FHWA and the States are working together to determine how to structure FHWA assurances to be acceptable to bond market investors.

New Horizons for Innovative Financing

Increasingly, States are using Federal apportionments as a secondary source to support revenues pledged for bond payments (e.g., tolls and fees). FHWA has promoted testing the feasibility of this approach and expects to expand its use if practical. The use of Federal apportionments as credit enhancement would make it easier for States to raise private capital for projects.

Several States have proposed using their accumulated "contract authority," also known as their unobligated balance in the Federal Highway Trust Fund, to serve as credit enhancement for debt issuance. For example, they would like to be able to represent to potential bondholders that their unobligated Federal funds could be used as a reserve in the event that a bonded project is temporarily unable to make a payment

from its primary revenue sources. While certain Federal guarantees may cloud the tax-exemption for bond interest income and other innovative financing tools may be preferable, the States' requests have prompted FHWA to explore this concept.

Working with the Federal Transit Administration (FTA) and pursuant to Title 49 of the U.S.C. Section 9, some States use Certificates of Participation (COPs) backed by anticipated FTA funds to finance transit projects. The COPs are often backed, in part, by payments of Federal-aid funds and may be secured by subway vehicles, stations, or buses. FHWA and the States may explore ways to issue COPs backed by FAH funds apportioned to States.

Application of Bond Issue Provisions

In one State, construction of a new four-lane divided highway that would relieve urban congestion has been delayed for more than a decade, although the project has received its environmental approvals. Although this project would alleviate a number of transportation problems associated with existing traffic levels, the project's costs represent a significant share of the State's apportionment. The relatively large scale of the project, coupled with the traditional need to obligate the full Federal share of project costs, has prevented the identification of a project start date.

In order to advance the project, the State proposed to use the toll-road eligibility provisions of ISTEA by using a bond issue to assemble funds for construction. Although the State has multiple sources of capital for the project, the flow of these funds from various beneficiaries is difficult to secure prior to construction. In addition, certain portions of the funds can only be realized after the project is built.

The proposed use of a bond issue provides an "umbrella" for the various funding sources. It also permits the fund flows to be capitalized to pay for construction. Proceeds from the bond issue will cover portions of *both* the State share of project costs and the expected future Federal highway funds. It is anticipated that the non-Federal share will include toll revenues, local funds, and State monies in amounts to be determined as debt service payments are due. Also, the amount of Federal funds that need to be obligated to share in debt service payments can be determined annually.

Another State created a transportation improvement district which has the power to issue bonds and, therefore, can provide infrastructure to support and spur economic development. By using the bond issue provision as part of an economic development plan, this proposal would consolidate local funds and new revenue sources (such as tax increment funds and the sale or lease of land near the rights-of-way) with a fixed amount of State motor fuel taxes and Federal apportionments to pay bondholders. The ability to commingle repayment funds significantly enhances the marketability of bonds.

A number of States are exploring the use of public-private partnerships to finance highways. These partnerships take a variety of forms, but they generally use both debt market instruments, such as bonds and private equity investments. On a nationwide basis, only a handful of these projects in the next few years are likely to be sustainable by exclusively levying user fees to repay investors. As a result, States have proposed using the bond issue provision to offset mortgaged project costs over time. In most cases, this technique can minimize the use of Federal funds in these projects.

EXPANDED MATCHING OPPORTUNITIES

Under the *Innovative Financing Initiative*, States will have more options for matching the Federal share of highway projects. States may be able to use in-kind contributions, the value of public donated rights-of-way, private funds, or credit for previously constructed projects to match Federal shares.

Flexible Match

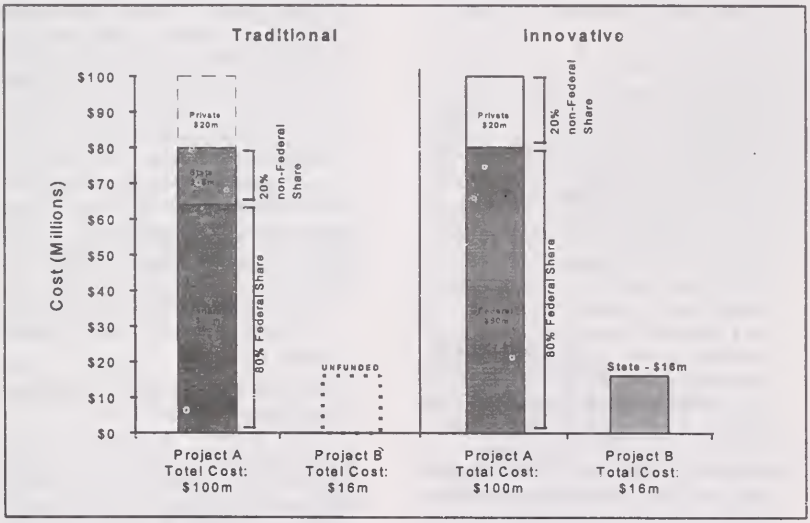
Traditional Financing

In order to receive their share of FAH money, States must fund a fixed, minimum percentage of a project's costs—in most cases, 20 percent. Traditional highway funding arrangements required States to fund the entire non-Federal matching requirement from State and local funds. Any in-kind contributions, except rights-of-way donated by a private entity, have been deducted from the total project cost before the level of Federal assistance is determined. States, therefore, have realized a savings of only 20 percent of such contributions. Evidence suggests that this restriction does not provide an incentive for States to identify and utilize all available local and private resources, nor does it minimize cost.

ISTEA/Innovative Financing

In an effort to maximize the use of all available resources, projects in the *Innovative Financing Program* may count private donations and local in-kind contributions towards the 20 percent non-Federal matching requirement. Under the *Innovative Financing Initiative*, local government capital, in addition to cash, is considered for non-Federal matching purposes. A number of proposals also use private capital as the required match.

Traditional Funding vs. Flexible Match



Application of Flexible Match

States' responses to *TE-045* have demonstrated that Federal dollars can be leveraged more effectively by providing flexibility in the form that the non-Federal match might take. A number of States confirmed that new approaches can lower the public's transportation development costs in an era of increasingly limited resources.

One State proposed leveraging Federal funds through local and private development of an Interstate highway interchange. The State offered a fixed sum of Federal funds, totaling less than 40 percent of project cost, contingent on coverage of the remaining costs by local and private beneficiaries. In addition to making limited Federal monies available to more projects throughout the State, this approach provided an added benefit: Under the agreement with the local officials, Federal funds would not be used to match any costs over the engineering estimate. The local-private matching share, in effect, would increase if project costs escalated.

A number of States identified intermodal projects for which FHWA's traditional rules for contribution of rights-of-way differ from those of the non-highway mode. In these cases, States proposed that FHWA allow in-kind contributions as part of the non-Federal match. States demonstrated that projects could be accelerated significantly and delivered at a lower public cost with the adoption of this approach.

Allowing the contribution of existing assets, such as rail stations, to constitute the non-Federal match was identified in "transportation enhancement" projects proposed by a number of States. States indicated that without an alternative interpretation, the advancement of relatively small projects required excessively cumbersome bureaucratic efforts. Enhancing States' ability to accelerate enhancement projects through alternative matching interpretations could help build support for a State's overall transportation construction program.

Section 1044 Investment Credits

Traditional Funding

Most highways providing similar functions have historically been categorized as either (1) highways receiving Federal aid for which there is no charge for use; or (2) toll roads which receive no Federal aid.

1. *Federal-aid Roads:* State-initiated highway projects are generally eligible for 80 percent Federal aid. States must fund 20 percent of the total project cost as a match of Federal funds. Sources of matching funds traditionally include State-contributed equity in a project in the form of State funds and/or proceeds from general obligation bonds.

2. *Toll Roads Receiving No Federal Aid:* Various States have independently developed toll roads which were not traditionally eligible for Federal-aid funding or which pre-date the Interstate Highway Program. Project costs were funded entirely by the State and/or the authority operating the toll road, with proceeds from revenue bonds backed by the expected toll revenues. These funds are often augmented with internally generated capital and/or State-contributed equity.

States which have developed both types of highways have been required to both:

- Fund the full cost of the toll road's construction and its ongoing maintenance, *and*
- Fund the matching share of Federal-aid highways.

In these States, there was little or no incentive to expand upon the toll road's ability to deliver and maintain transportation infrastructure and reduce the demand for State

and Federal-aid funds through user-fee financing.

ISTEA and Innovative Financing

Among the breakthrough changes under ISTEA were the following:

- New toll roads can now receive Federal aid, although at a reduced percentage compared with non-tolled roads; and
- Certain non-tolled roads can now be converted to toll roads, which would reduce the amount of public funds required for maintaining and rehabilitating such projects.

The NHS includes toll roads developed by States outside the framework of the Interstate program. In order to give those States that have been investing in toll roads on the NHS appropriate credit for their greater share of local highway investment, ISTEA incorporated the concept of investment credits. To the extent a State chooses to expand the role of toll-road authorities in constructing or reconstructing the State highway system, it can receive appropriate credit for this under the Federal-aid program in future years. For example, a State has $80 million in State funds available for highway projects. Under traditional funding, as shown in the chart, that $80 million accomplishes only two projects (Projects A and B) totalling $160 million. Under Section 1044 investment toll credits, the $80 million in State funds in conjunction with $20 million in toll revenues accomplishes four projects (Projects A, B, C, and D) totalling $280 million.

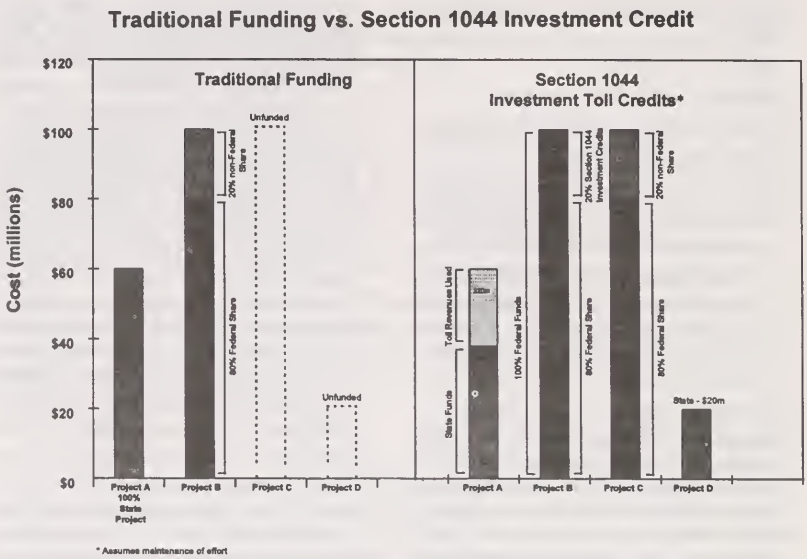
ISTEA, therefore, offers two potential benefits to the States. For those States that are constrained in funding the non-Federal match from traditional sources, credit for ongoing investment in other highways provides another mechanism to meet the non-Federal share requirement and secure Federal participation in projects. For those States that are already using all of the Federal-aid funding available to them, the investment credit permits them to use freed-up traditional State dollars for projects that might otherwise go unfunded.

To be eligible for ISTEA Section 1044 investment credits, States must demonstrate their commitment to continue ongoing levels of investment in transportation each year by complying with the "maintenance of effort" provision outlined in Section 1044(b). Since enactment of ISTEA, 12 States have earned almost $2 billion in these credits. In the last few years, the effectiveness of this provision has been limited by State budgetary constraints. However, States have had difficulty complying with this provision, often due to insufficient investment in only one of several prior years.

Under FHWA's financing initiative, a number of States have indicated their willingness to make a greater budgetary commitment to *future* investment in transportation if State financial officials understand that they can qualify for Section 1044 investment credits. This use of a *prospective* commitment to the maintenance of effort will test an alternative interpretation of Section 1044. This structure can be used in a number of cases to build new partnerships between turnpike/toll-road operators and State DOTs for cooperation. In effect, this new approach dynamically rewards those States which are prepared both to leverage user-fee-financed capital and to provide a commitment to ongoing State investment in transportation.

New Horizons for Innovative Financing

ISTEA offers States the opportunity to develop new financing ideas for highways. The primary goal of the *Innovative Finance Initiative* is to work with and assist State and local governments in their efforts to boost investment in transportation infrastructure to rebuild transportation facilities that support the economy.



In order to advance innovative ideas and to maintain support for Federal transportation funding, Federal innovation cannot substitute for State commitments to maintain investment. It is expected that some ongoing refinements to the "maintenance of effort" provision will be required.

Many States are faced with complex decisions regarding whether to use their limited Federal funds to build and repair non-tolled roads, or to make grant monies go further by leveraging user fee revenues received from toll roads. In an era of limited public funding, user-fee-financed roads can be in place sooner, delivering greater economic benefits in the State. FHWA anticipates that increased certainty about the availability and use of investment credits in the future may help State decision makers develop user-fee financing for new construction and repairs. Such guarantees are expected to be outlined as part of a comprehensive effort to reform regulatory and policy guidelines and as part of ISTEA technical corrections legislation.

Application of Section 1044 Investment Credits

Under current FHWA guidance, in order to earn Section 1044 investment credits, a State must meet a "maintenance of effort" (MOE) spending level test based on *past* spending levels. In response to ***TE-045***, States have expressed the willingness to commit to *future* investments in order to gain access to investment credits. One State proposed to combine the credits developed from new investments in three toll facilities and distribute the benefits to two other State projects. The five projects identified in the proposal are geographically dispersed across the State and will provide benefits to different areas simultaneously. The proposal reflects a partnership between the State DOT, quasi-public transportation authorities, and private operators to advance needed investments.

Another State proposed using the investment credits generated in a specific county to accelerate the construction of additional connecting highways that will relieve congestion in the same area. In addition to using credits for the non-Federal match, the State will also use the *advance construction* provision for Federal funds. This combination of financing techniques will result in significant acceleration of project development and lower up-front costs, thus reducing the impact on the State's budget. In addition, other projects eligible for Federal aid will not be delayed in order to accelerate the delivery of the proposed project.

NEW LEVERAGING TOOLS—SECTION 1012

The FHWA *Innovative Financing Initiative* will provide States with access to alternative methods for leveraging the capital that funds their highway projects.

Traditional Funding

Under the traditional approach to highway funding, money from the Highway Trust Fund is paid to States only as reimbursement for highway construction outlays under Title 23. This limitation, in effect, requires that Federal funds be used only once, as an equity investment.

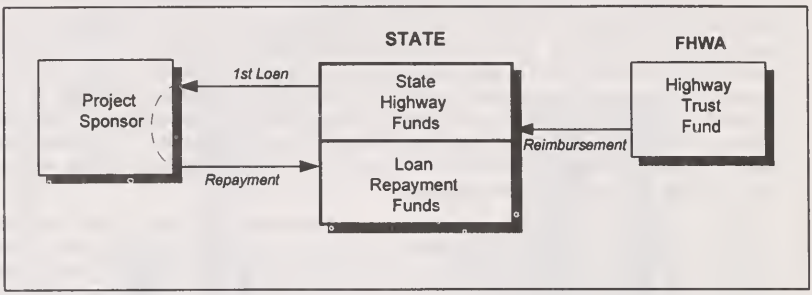
ISTEA/Innovative Financing

The enactment of ISTEA has given FHWA increased flexibility to leverage additional investment instead of relying solely on the Federal funds. Contained in ISTEA are several powerful tools with which FHWA can address the infrastructure gap by leveraging State, local, and private funds.

Using the *Innovative Financing Initiative* and ISTEA Section 1012, Federal funds can be used for:

- Eligible projects which include facilities with revenue-generating potential such as toll highways, tunnels, and bridges;
- Loans can be made to projects regardless of whether the sponsor is a public, quasi-public, or private entity;
- The loans are subordinated to senior debt and can have an extended repayment period; and
- In addition to loans, FHWA will consider other credit enhancement arrangements such as a line of credit or contingent loan.

Section 1012 Loan

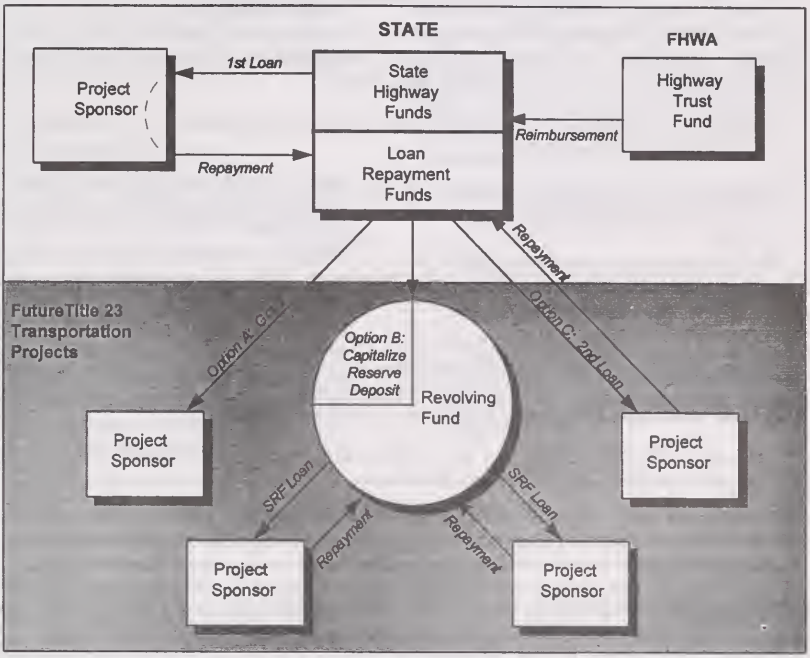


Under Section 1012, a State may loan money to a project sponsor. Federal funds can reimburse the State up to the Federal share of the project costs. States can lend any Federal-aid funding such as IVHS funds, Interstate Maintenance funds, Surface Transportation Program funds, and Congestion Mitigation and Air Quality (CMAQ) program funds to leverage investment in any eligible Title 23 projects. The loan may be repaid to the State with revenue generated by the project. States may use funds from Section 1012 loan repayments for a variety of eligible Title 23 transportation projects.

Although ISTEA states that loan repayment proceeds must be used to fund other surface transportation or ISTEA projects, it does not limit the State's financing options. When combined with the *Innovative Financing Initiative*, potential State uses of Section 1012 include the option to (1) grant the funds to one or more projects, (especially if those projects have limited revenue-generating capacity); (2) lend the funds to new projects, with repayment by project revenue; or (3) use the funds to capitalize a revolving fund. States can also use a combination of these three approaches.

- *Grant:* If a State adopts the option of making a grant, the level of non-Federal funds leveraged will equal only the amount of the initial loan.
- *Loan:* By choosing to loan repayment proceeds to other surface transportation projects with revenue-generating potential, a State can continue to leverage Federal funds to meet its transportation needs. Over time, the initial loan can sustain limitless new investment without requiring additional Federal or State aid, subject only to loan repayment schedules.
- *Capitalize a Revolving Fund:* Under this option, a State could establish a fund (through the State DOT or other agency) that would leverage the most non-Federal money while sustaining several projects at once. The revolving fund would issue bonds, backed by loan repayments by project sponsors from project revenues or other sources. The initial funds would provide coverage and act as a debt service reserve fund.

Potential Uses of Section 1012 Loan Repayment Proceeds



New Horizons for Innovative Financing

While ISTEA and the FHWA *Innovative Financing Initiative* have provided many significant breakthroughs, they represent only the beginning of what could be a new era in highway finance.

In the recently concluded 103rd Congress, legislation was introduced which would allow States to bypass the initial project loan and repayment cycle and use FAH funds to capitalize revolving funds immediately. By doing so, the benefits of the revolving fund could be realized earlier without the time lag associated with repayment schedules.

Application of Section 1012 Loan Provision

Prior to FHWA's *Innovative Financing Initiative*, no States had made any loans under ISTEA's Section 1012. A number of States have now proposed new ways to use the Section 1012 loan provision. The proposals include projects which

- Will develop alternative repayment sources beyond toll revenues (such as dedicated gas tax revenues, sales taxes, etc.);
- Recognize the link between Intelligent Vehicle Highway System/Intelligent Transportation System (IVHS/ITS) technology applications and their potential for revenue generation;
- Capitalize on the inherent economic efficiencies of the development of certain intermodal projects;
- Seek to use revenue bonds for projects (however, certain projects may not be able to develop sufficient capital to cover construction costs due to market requirements for debt service coverage and reserve account funding; in these cases, Section 1012 subordinate loans can be repaid relatively quickly from "coverage revenues"); and
- Benefit a toll facility but cannot be funded up front by the facility operator because of market, legislative, or jurisdictional limitations.

In a number of cases, the terms of the Section 1012 loan provision produce greater revenue for the State upon repayment than would have been seen through other uses of these funds.

INNOVATIVE INCOME GENERATION

FHWA recognizes that some financial techniques will be most useful during project operation, rather than during construction. Under *TE-045*, States may use techniques that will generate income. To the extent that future income flows can be anticipated as a result of changes in policy, these funds may be capitalized prior to construction, thereby enabling States to share the cost of projects with private entities and lowering the cost to the public. In addition, these techniques help increase the role of private partners in the provision of transportation services.

Public-Private Partnerships

Traditional Funding

Traditionally, States have been restricted in their ability to permit commercial activity along Interstate rights-of-way. Title 23, Section 1.23, of the Code of Federal Regulations states that

> All real property, including air space, within the right-of-way boundaries of a project shall be devoted exclusively to public highway purposes....The State highway department shall be responsible for preserving such right-of-way free of all public and private installations, facilities or encroachments.

Although the regulation was originally intended to address potential safety concerns, a number of States have indicated that it severely hinders their ability to generate ancillary income to defray transportation capital costs.

ISTEA/Innovative Financing

To shift the burden of transportation funding away from traditional funding generated from taxes, FHWA is encouraging States to identify and capitalize on available commercial income resources, where appropriate. To that end, FHWA is reviewing, on a case-by-case basis, some of the restrictions on conducting commerce along the NHS. As a result of their responses to *TE-045*, certain States may now enter into mutually beneficial public-private partnerships along Interstate rights-of-way.

Several kinds of income-generating activities are possible without compromising safety. States can earn revenue through a variety of methods, including leasing public facilities and/or rights-of-way to private entities, profit-sharing, and selling advertising space. These activities can free up State funds for other highway projects. State-proposed activities include the following:

- Leasing sub-surface Interstate rights-of-way for communication lines;
- Deferring the cost of electronic freeway management systems by offering limited advertising space; and
- Designing, financing, building, leasing, and/or operating transportation service facilities such as rest areas along Interstate highways.

Application of Income Generation

Through the shared use of Interstate rights-of-way with the private sector, one State is accelerating the development of a freeway management system which will improve traffic flow and reduce air pollution in an air quality non-attainment area. In its response to *TE-045*, the State demonstrated that the project has the potential to provide income from private partners and therefore could advance by several years the development of the full freeway management system covering nearly 100 miles of increasingly congested roads. The State will solicit proposals from private and public entities that wish to share in the cost of laying the conduit.

This partnership arrangement will result in benefits to both the State and the successful proposer. Responses to the State's Request for Proposals process will identify the structure of potential lease terms and the revenues expected to be generated through this type of opportunity. In addition, the State also proposed a revolving loan fund concept (reviewed in the discussion of Section 1012 loans). Income from the leases will be deposited in the revolving loan fund. Combining these two concepts will allow the State to "recycle" the Federal CMAQ dollars invested in this system and allow for future expansion of an intelligent highway system without imposing an opportunity cost on other transportation initiatives.

Additional information may be obtained from the FHWA Division or Regional office for your State or by contacting these individuals in FHWA's Washington, DC office:

Jerry Poston
202/366-0494

Tom Howard
202/366-2833

Max Inman
202/366-2853

Steve Martin
202/366-6092

STATEMENT OF DANIEL V. FLANAGAN, JR., CHAIRMAN, COMMISSION TO PROMOTE INVESTMENT IN AMERICA'S INFRASTRUCTURE

Mr. Chairman, Members of the Subcommittee, it is an honor to have been invited to testify before you today as the Chairman of the Infrastructure Investment Commission created by Congress in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, and also as the Construction Writers Association of America's 1993 Construction Man of the Year for the "Innovative recommendations of the Commission." I am delighted to be here recognizing your interests in alternative financing techniques for infrastructure.

I note that the House held similar hearings last year and covered many of the issues that our Commission had looked at as well, particularly the matters surrounding the decline in infrastructure spending in this country.

Our Commission held seven public hearings in the Fall of 1992 with 46 witnesses from various financial institutions, development firms, pension funds, project sponsors, and public officials. Our report was submitted to the President and Congress on February 23, 1993. We have briefed the leadership of Congress and the Chairmen and Ranking Members of the appropriate committees. We are excited that our recommendations will be considered in-depth during the course of the review of the ISTEA legislation during the years 1995 and 1996. We believe they are particularly applicable as Congress also addresses the issue of "privatization" which I prefer to call, as a more descriptive term, "private capital investment".

It is my pleasure to inform the Members of this Committee that on numerous occasions, perhaps 30 or more, I have been asked to give speeches around the country on the subject and the reception has been very positive. I think there is an intense desire to provide for new opportunities for private capital infrastructure investment in both new facilities and those already in existence where government does not have the means available for modernization, compliance, and savings.

By way of perspective, I think it is worth noting that the major Federal infrastructure initiatives that began in the post cold war era have now reached a point, 40 years later, where there is a certain maturity. Last year Secretary of Transportation Peña spoke about the 40 year old vacuum tubes which are the principle element of our air control system around the country. He suggested the need for the Air Services Corporation as a vehicle for private capital to invest in the modernization of those facilities. Coincidentally, that is the time when the Federal Highway System, under President Eisenhower, was initiated as were many other of our Federal infrastructure activities. During that same period, most of the infrastructure funding in this nation was devoted to either grant programs, at both the Federal and State levels, or in the municipal bond area.

Interestingly enough during the course of these speeches, it was pointed out to me by a World Bank panelist that, not only was the United States the *only* nation in the world to provide for a municipal bond/tax exempt approach—with a Federal tax subsidy—for our infrastructure, but that the rest of the world was geared toward a project finance approach and we were not. Through this historical devotion to grant programs and municipal bond finance—which moves exclusively through the political process—we have inadvertently prevented the private sector from playing a role. What is that role? I would tell you it is taking risk, it is introducing new technology, and it is providing alternative innovative financing. Most importantly, when we talk about "privatization", there is private capital available with a willingness to invest in suitable infrastructure product *if* available.

Fortuitously, the Department of Energy and the Department of Defense are actively considering recommending to Congress a new credit enhancement facility to encourage private capital investment in government owned energy facilities. There is significant private sector interest in what would be a new energy generation market for them and a decided savings for the Departments. This proposal is described in the attachments and is currently referred to as the Forrestal Corporation (after the Department of Energy's headquarters facility) and has its origins in the Commission's recommendations and the current evolution of the electric utility industry and independent power production; which I am intently familiar with going back to the *Energy Policy Act of 1992*.

Another current example is a proposal, again deriving from our recommendations, by the National Education Association to create "Eddie Mac" as a vehicle for our nation's pension funds to invest in securities dedicated to the rebuilding of our nation's schools.

Our over arching goal is to "grow the pie". This is not an either/or but rather an additional outlet on the financing artery of infrastructure. One of the reasons that American pension funds can invest in products overseas in China and elsewhere is that there is a global tradition of project finance. What we need in this country

today, is that same product deriving from that same discipline. Historically, we have provided a tax exempt status for pension funds, coincidentally, beginning after World War II. As a result, we now have a tremendous buildup of capital which is probably the largest in the world. Since we have never taken the time to design an infrastructure product for this vast resource of capital, it has looked for its investment opportunities elsewhere.

I must tell you Mr. Chairman, that American institutional investors want to invest in their own nation's infrastructure; but they cannot because we have not, to date, responded to that interest. Colorado's public employee retirement system testified as to their trustees desire to have 20 percent of their assets invested in Colorado—but they were only at 7 percent and had exhausted what intra-state infrastructure opportunities existed. They heartily endorsed our recommendations as a way to increase the supply of infrastructure investment opportunities in Colorado. The same story occurs in every State in America. That is my underlying message here today.

There should be no mandates; we said that in our report. Frankly, the whole subject of economically targeted investing, ETI as it's called, is counter-productive. The issue is not on the pension fund side, it is on the product side. *What is needed in terms of the Federal and State government activity is to address the availability of development risk insurance, user fee reinsurance, and credit enhancement to get the product to the marketplace prior to actual construction.* The financial institutions will do their own due diligence and will make the investments accordingly stimulating over time the creation of a new, liquid market in security instruments that are also attractive to pension fund investors. These would be at non tax-exempt yields sufficient to attract such investment since pension funds are already tax-exempt and will not purchase tax-exempt municipal bonds. We provide risk insurance for American investment abroad through the Overseas Private Investment Corporation, and now through the Export-Import Bank, it is time to do the same in our own country.

Mr. Chairman, it was my pleasure to serve as Chairman of the Infrastructure Investment Commission and to appear before you today. I look forward to working with you and your staff during the coming months, particularly as Congress reviews the *Intermodal Surface Transportation Efficiency Act*; and how our Commission's recommendations will spur innovative financing techniques for both new and existing infrastructure, whether publicly or privately owned. I would hope that could be the vehicle for action on our recommendations. It should be understood, that while transportation might be the leading edge for our proposals—they do incorporate other infrastructure modes and whatever legislation is drafted should not be generically exclusive but rather focus on the marketplace and new ideas that can evolve throughout the infrastructure spectrum.

I can assure you that, just as American firms are actively involved around the world in energy and telecommunications infrastructure projects, with the experience of project finance in these other modalities of infrastructure, those global markets—particularly in environmental infrastructure—will also enjoy American expertise. As I noted earlier, there is a great deal of discussion now about "privatization". The lesson from our report is, "How does government encourage private capital investment?" That is the key. The answer is, once again, by fostering product through modest Federal investment in development risk insurance, "user fee" reinsurance, and credit enhancement prior to construction. As a result, leveraging those Federal dollars some 20-fold by the entry of private capital.

Attached are addenda providing supplementary testimony and, particularly, a question and answer section that is provided for clarity purposes.

Thank you very much. I look forward to your questions.

ADDENDUM A

QUESTIONS AND ANSWERS AS TO THE RECOMMENDATIONS OF THE INFRASTRUCTURE INVESTMENT COMMISSION

Question 1: What innovative or alternative financing techniques does the Infrastructure Investment Commission recommend for infrastructure projects?

Our recommendations for packaging a product for institutional investors are as follows:

(1) The Federal Government would provide several tools to State revolving funds including development risk (pre-construction) insurance, which is essentially coverage for architectural fees, environmental studies, permits etc., against the various risks inherent in the political process. We do provide political risk insurance for American investment abroad through the Overseas Private Investment Corporation but there is no such entity today on the American scene. If we are increasingly shift-

ing to revenue-supported projects utilizing a user fee, there must be a public confidence factor and plebiscite involved. Therefore, a premium/deductible purchase of development risk insurance allows for the entry of a "community of interest" around a project, to stay the course and establish the user fee base.

(2) With the user fee established through a plebiscite or some other public action, you then have the opportunity to provide the second tool, i.e., to reinsure that the user fee provides credit rating/credit enhancement opportunity for the project. This is all done as part of the pre-construction financing stage which is the most crucial part of infrastructure. Once the project is up and running and generating revenue, the unique phenomena of infrastructure is that in the downstream years, the project only enhances its economic value.

These tools will secure the interest to seek additional diversification in investment strategies and innovative projects across the spectrum of the American economy for possible investment. This has become increasingly evident with pension fund managers which has never happened before. Through accidents of history we have shaped our infrastructure spending around grant programs; and we are unique in the world in providing significant Federal subsidies to underwrite in the municipal market. We need to add a third leg which is private capital investment looking at the basic parameters of domestic project finance now done all over the world.

(3) The other recommendation, to help in the pre-construction finance phase, is to multiply the provisions in ISTEA having to do with subordinated debt as that may be necessary to complete the financing of a project noting that the user fee will be in place eventually.

Question 2: Can these innovative financing techniques be further developed and successfully applied given the existing statutory framework?

All of this requires a small agency to serve as the administrator of this program providing these tools to State revolving funds and hence, the creation of the National Infrastructure Corporation is suggested. This would be a modest sized entity serving as the financing intermediary with the States and ultimately taking the program to its next step, which is to sponsor, with the States, a securitization of these projects and a resultant secondary market for liquidity purposes to increase the opportunity for institutional investment.

The testimony that the Commission heard from pension managers is that they seek diversification in their portfolios, and that they are prepared to do their own due diligence based on risk reward ratios; but right now there is no product available. The challenge of the Federal Government is to provide those tools which would be at relatively modest cost in this era of the "hard freeze." We would anticipate that the private sector would be co-investors in these insurance-type activities. We modeled our recommendation as to credit enhancement after the Federal sponsorship of Connie Lee, which specializes in small college facility financing. Indeed, they have leveraged $18 million of a Department of Education investment along with other private investment into $5 billion worth of current projects on their books.

We say in our report that $1 billion/year for 5 years would allow leverage (at the ratios of 10:1 and eventually 18:1) to the point where the Corporation could maintain an infrastructure pipeline of economic activity of approximately $100 billion. Indeed, this is a laudable objective and the cost to the Treasury would be modest.

Question 3: How would a proposed national infrastructure corporation and an infrastructure insurance company work and how can they be implemented?

The Commission has proposed offering three types of credit assistance for projects: (1) being a lender of subordinated debt to project sponsors; (2) establishing a credit enhancer to provide financial guarantees to third-party lenders; and (3) providing insurance against non-completion for development phase expenses. These functions would be provided through a newly-created, federally charted organization which we are calling the National Infrastructure Corporation (NIC). For purposes of analysis, let's assume a Treasury line of credit of $1 billion would be needed to support NIC's loans, guarantees and insurance, although this is somewhat conjectural.

Each of NIC's activities would require initial capitalization from the general Federal budget but is expected to be self-sustaining thereafter. We are assuming $1 billion per year over 3 years. The Commission somewhat arbitrarily assumed that the split among the three programs would be 65 percent-25 percent-10 percent, respectively. The budget impact analysis should calculate the fiscal impact for each dollar that is appropriated to each program, allowing us to adjust the relative allocation of funds.

(1) *Funding Subordinate Project Loans:* NIC would fund $650 million of subordinate debt at an assumed blended taxable and tax-exempt rate of 10 percent with $650 million of appropriations. Subordinated debt may be supplemented by public

or private sponsor equity. Based on the assumption that the subordinated debt will represent up to 25 percent of project costs, this $650 million initially would induce nearly $2.6 billion of projects. However, since the Corporation itself acts as a revolving fund, there is a multiplier effect of secondary loan activity generated by loan payments. Based on rating agency analytic models of potential default experience in a "depression era" scenario for BB caliber debt, we have assumed that up to 9 percent of the subordinated debt portfolio could become non-performing. Assuming that there is a 2-year construction period before repayments commence, the Corporation would receive $70 million per year from 1995–2000, which in turn, could be relent. These moneys would result in over $350 million of second round revolving loans. (In addition, the Corporation would seek to monetize the remaining balance of its performing loans after 5 years seasoning by borrowing against or selling off its portfolio, generating further lendable funds.)

(2) *Credit Enhancement:* The infrastructure insurance subsidiary would provide a primary insurance financial guarantee on debt service payments for infrastructure projects of BBB caliber, similar to operations of Connie Lee. The credit enhancer could also provide reinsurance to existing bond insurers to free up additional capacity for them. Due to its higher profile, the credit enhancer would probably need to adhere to more strict standards than Connie Lee's 50:1 debt service exposure to capital ratio. We have assumed a 30:1 ratio, which is roughly midway between the leverage ratios used by rating agencies to assess credit enhancer portfolios of commercial real estate mortgages and highly leveraged transactions. The 30:1 debt service-to-capital ratio corresponds to a 15:1 ratio for the par amount of bonds insured to capital. Assuming that half of the debt would be tax exempt and half would be taxable, the credit enhancer would be insuring issues with an average borrowing rate of 7.5 percent for 20 year borrowings.

(3) *Development Risk Insurance (Pre-Construction):* It assumed that NIC would insure the project sponsor against loss on development costs, with a 30 percent deductible (i.e., a 70 percent coverage) similar to the Overseas Private Investment Corporation's "political risk" insurance program. If development phase costs are assumed to equal 5 percent of total project costs, the $100 million in seed capital could ultimately induce $2.8 billion of activity. Projects might still need funding assistance at the construction phase through the guarantor lender, so the induced activity may not be additive to the total. Due to the speculative nature of project development, we have assumed 1:1 reserves against total development risk exposure. The amount of insurance written for any single project would be capped to prevent undue concentration of risk.

Question 4: What obstacles are hindering the use of innovative or alternative financing? for infrastructure projects? What can be done to overcome these obstacles?

In my addenda, Mr. Chairman, I talk about the lessons of PURPA (Public Utility Regulatory Policy Act of 1978) and how through a certain Federal action concerning a subsidy for co-generation, an independent power generation industry was created. We oftentimes find ourselves looking at a mature industry segment in our economy and look for a way to encourage private capital to reinvest and revitalize. The obstacle with infrastructure is that it has been historically wedded to the political process and in a sense is a regulated industry. We addressed similar challenges in telecommunications, natural gas, electricity/power generation, and the same applies to infrastructure. The obstacles are that we have been weaned on grant programs and municipal bond finance, all part of that regulated political process.

As a result, the entrepreneurs who seek to invest in America's infrastructure—the architects, engineers, etc.—are discouraged and will not move forward because of the lack of one-stop shopping, etc. That's why the tools that we have suggested here will unleash—and I can tell you that we have talked to many people who want to do this—considerable economic activity, e.g., environmental waste treatment plants, high technology toll roads, and even telecommunications. For example, the National Education Association recently testified as to their desire for retirement systems to have the opportunity to invest in telecommunications infrastructure for schools. They have suggested certain approaches and funding techniques that are very similar to the recommendations contained in our report

Development risk insurance, credit enhancement, etc. are the basic concepts and I think you would be amazed at what could happen. My thought is that it would mushroom once people saw the full potential. I would also say that the traditional investment banking firms are beginning to explore these new concepts, but it is taking some time. Pension funds have been tax exempt since their inception and as a result they do not communicate with nor are they interested in—except for trading purposes—purchasing municipal bonds. Therefore you have this great chasm between the public finance officials on Wall Street who have dealt exclusively with

municipal bond tax exempt finance and the pension funds. Pension funds are so enormous in size in numerous instances that many have their own staff and are perfectly capable of performing due diligence and investing in infrastructure on their own if product is available.

Question 5: What can be done to encourage the use of innovative or alternative financing for infrastructure projects?

The establishment of a National Infrastructure Corporation would be a very positive step. We were always impressed with the history of Connie Lee and how—with $18 million as a minority investment in that entity—so much was accomplished of a positive nature. I must repeat, Mr. Chairman, that we are at the end of an era—the end of the post cold war economy—and we are frankly looking for new ways for capital to replenish and augment our thinning infrastructure across the land. We need in some instances to bring a new paradigm into place so as, with minimal government investment, to maximize potential private capital funding. While I point out in my testimony that the private sector is certainly in a position to establish facilities for development risk insurance, etc.—at a minimum, the Federal Government should begin a process to do likewise because we cannot afford the luxury of waiting any longer. I don't think we want a command and control effort in terms of the design of the financing instruments, etc.—it is important that the marketplace be allowed to discern that. The fundamental problem is that entry into infrastructure is the challenge. We must understand that entrepreneurs, who would spend millions of dollars on development fees need assistance, as a revenue stream must be established for that project and there is always political uncertainty. Therefore, the government has to recognize this and provide the tools to address this uncertainty.

Question 6: What are the appropriate roles of Federal, State, and local governments and the private sector in developing innovative and alternative financing?

The National Infrastructure Corporation would serve as an administrative agency providing the aforementioned tools of development risk insurance, credit enhancement, etc. They would perform this task for their "clients" who would be State revolving funds. In order for States to participate in the program they would have to establish a revolving fund of a multi-agency nature, not exclusively transportation, so as to encourage project development in a variety of areas including environmental. It would be assumed that States could add additional funding to their programs; and I personally know that several States are considering that, particularly California It is true that these same tools could be initiated by State government; but what we are discussing is a national policy and a role where Federal dollars can encourage significant private capital investment. Therefore, we would envision State revolving funds serving as the project facilitator for these types of financings. In other words, if a project from a particular State desires to purchase development risk insurance, they would contact the State offices to do so. We would actively discourage and recommend against a centralized national facility because that would inevitably create a giant bureaucracy. We want the credibility of programs being maintained by the State and that the Federal entity—The National Infrastructure Corporation—be kept to a modest size exclusively serving State revolving fund clientele.

Earlier studies, such as Fragile Foundations, endorsed State infrastructure revolving funds. It is practical that the State determine which of their projects can establish the appropriate revenue stream for certain developments. Governor Blanchard (now Ambassador) suggested that the tools available from The National Infrastructure Corporation would have allowed him to decipher what projects were prepared to establish a separate revenue stream that would have given him the opportunity to then decide how to readjust his grant program/tax exempt finance strategies to deal with projects that could *not* garner such a revenue stream, e.g. inner city and rural areas.

Essentially, the Federal role is to provide the three tools of credit enhancement, development risk insurance, and subordinated debt to the State revolving funds who in turn serve as service centers for the project sponsors, which can include, typically, a very complete group of local officials, architects, environmentalist, etc.

It should be pointed out that the lenders for such projects, both for the short term construction lending and the long-term financing, will expect significant information prior to and during the construction phase of the project. I have personally witnessed the scrutiny upon which such projects must undergo. When private capital is being placed at risk in construction finance, particularly in a situation where the revenue stream does not commence until after the construction phase has been completed—the lenders will be very exact in their requirements. This gives great secu-

rity to the project because, unlike a grant program where there is 100 percent risk to the government sponsor and no guarantee of on time completion, here there is every incentive to perform on time. The Federal Government as a result, in providing these tools to State revolving funds, takes very little risk. The lenders, and the credit rating agencies who are involved through the credit enhancement process, bring disciplines that in many ways provide self insurance to the Corporation's activities.

We can assure you that our witnesses were very impressive as to the innovations that they would sponsor. That is their business, working in inventive ways, so that the project can be considered by the private sector for innovative financing techniques.

The subordinated debt provisions mentioned earlier are brought into play as a loan when in some instances the project is close to financing but needs to add to its equity side. This is the one area where we would assume a modest amount of loss, but we made such assumptions when determining what the leverage would be for our program.

Financing by the Federal Government, in this instance, is essentially a one time phenomenon as to equity investment in these insurance disciplines. Assuming significant success, Congress may want to increase the amount of financing, particularly on the subordinated debt side. Once a project begins receiving revenues from the services being rendered, it no longer is part of The National Infrastructure Corporation Revolving Fund enterprise—and is spun off to begin its commercial life thus allowing the resources from the Corporation and the revolving fund to be replenished and to resume discussions of financing for other projects.

ADDENDUM B

During the course of our hearings, I was struck by the fact that one witness, Bill Chew from Standard and Poors—a nationally recognized expert on bond ratings made the comment that what we were doing reminded him of PURPA, which stands for the Public Utilities Regulatory Policy Act. The Act spawned the independent power industry at a time when virtually all power plants were "built" by utilities. The perception was that no one else could do it. Today we find that the bulk of our power plants are being built by independents injecting new technology and private capital. It is an interesting analogy and one I am personally familiar with having led in the Public Utility Holding Company Act (PUHCA) reform effort. In fact, earlier efforts in related industries only further my confidence in our recommendations. The key is entry. Private capital has the attribute of encouraging entrepreneurs, something that we have not had very much of in our nation's regulated infrastructure. While the best at systems management, the United States is falling behind in our infrastructure technology according to recent studies. There has been this discussion of public/private partnerships which I salute. Real benefits will come from a marketplace approach that will provide intrinsic competition to the existing infrastructure networks and, in the long run, elevate infrastructure matrix to a higher standard.

Our recommendations have no real opposition. We have put together suggestions that have been very well received and, as a result, I would urge you to consider them seriously. Additionally, there is nothing in the law that precludes the private sector from pooling their resources and developing similar tools to those recommended for the Federal Government. The private sector can easily form private development risk insurance companies, credit enhancement facilities, etc. The problem, to date, is that they have not for non-tax exempt investment securities. The Federal Government, as a result, should take the initiative here in the context of leveraging the Federal dollar. A modest stipend for this activity on the Federal side will multiply to a significant extent what the Federal dollar can do through the States. In truth, you can more readily address the needs of the inner city and rural America by bringing on this additional capacity of user fee application. You do grow the pie.

Years ago, I had the pleasure of the friendship of Mr. Ray Lapin, a fellow San Franciscan, who had been the head of Federal National Mortgage Association (FNMA) in the Johnson Administration and while there, established the GNMA program. At the time I had just returned from Naval service in Vietnam and was a young investment consultant working with pension funds around the country. Ray and I were talking about this activity back in our own home town during a political campaign and Ray noted that GNMA's would be the perfect investment opportunity for pension funds. Mind you this was in 1971. No one knew what a GNMA was in those days and of course the rest is history. I have explained many times, particularly to Senator Moynihan who had a significant role in ISTEA, that what Ray

Lapin had in mind with GNMA for housing—we must find something similar for infrastructure.

There are numerous projects across the land, e.g., rebuilding bridges, that can stand the test of a time-certain user fee and with a funding scheme allocated over a 30 year depreciation period the cost to the consumer will be on a par with the current financing techniques. The point, as always, is that we must do more. We cannot afford, as a Nation, to freeze out the vast resources contained in America's institutionally managed accounts, particularly the pension funds. During our testimony the State of Colorado made it very clear, in terms of their public employee retirement system, that they had an in-state investment goal of 20 percent (i.e, funds from their pension funds would be helping the economy of that State to the amount of 20 percent of their portfolio). They were only at 7 percent at the time and had run out of ways to invest in their own State of Colorado. I would imagine that would apply throughout the country and that there is a certain urgency to taking action on the recommendations we have suggested.

The Infrastructure Investment Commission was created with this challenge in mind, performed extremely well, and had exceptional expertise including former Secretary of Transportation Neil Goldschmidt. After numerous hearings we delivered our recommendations to Congress in 1993. To summarize those recommendations, let me simply say that private institutional capital invested in our own nation's infrastructure is long overdue.

Attachment A

[illegible]
[illegible]
[illegible]

2. ***Provide financial insurance***, through its Insurance Corporation subsidiary, on taxable and tax-exempt debt, particularly for smaller or start-up projects which have difficulty obtaining conventional credit enhancement.

3. ***Provide development risk insurance*** for critical pre-construction and other development phase costs.

4. ***Facilitate pension fund infrastructure investments*** through the issuance of investment grade infrastructure securities. The Act also creates an opportunity, over time, through a transition plan, for these funds to purchase a controlling interest in NIC from the Federal government.

5. ***Guard the public interest*** by the use of strict project selection criteria and by application of Davis Bacon Act wage provisions to NIC assisted projects. The Act also makes clear that state and local authority to approve and regulate an infrastructure project is not superseded by NIC assistance.

NIC FUNDING:

NIC would receive start-up capitalization through the sale of common stock to the U.S. Treasury, authorized at a realistic ***$1 billion per year for 3 years***. Thereafter, ***NIC would be self supporting***, and the Act specifically prohibits any additional federal investment. The Act also states that NIC's obligations do not carry a federal guarantee.

The projected additional revenue to the U.S. Treasury generated by the Public Benefit Bond is anticipated to offset the amount of the federal investment in NIC. The legislation also provides for a ***transition plan*** under which the federal government's investment in NIC would be repaid.

PUBLIC BENEFIT BONDS

Public and private pension plans would be permitted to purchase Public Benefit Bonds issued to finance infrastructure facilities. The interest income would be distributed tax-free to the plan member at retirement, passing the tax benefits through to plan beneficiaries. These bonds would be of particular interest to defined contribution plans which could offer their participants new competitive investment opportunities tied to infrastructure development.

Public Benefit Bonds would significantly broaden the market for infrastructure bonds, and would have a projected ***revenue-positive budgetary impact***, based upon Department of Treasury budget-scoring methodology.

Attachment B

THE FORRESTAL CORPORATION

Following are questions and answers that will help explain the Forrestal concept and process.

What is the problem facing the DOE, DOD and other federal agencies?

The agencies' steam and electric generating plants and transmission facilities are generally old, inadequately maintained and not in compliance with a long list of requirements, including:

- Clean Air Act Amendments
- Energy Policy Act of 1992 (EPAct) efficiency requirements
- Executive Order 12759 (April 1991) mandatory improved energy efficiency in federal buildings, facilities and vehicles
- Executive Order 12902 requiring 30% efficiency gains by 2005

Continued operation of these facilities is inefficient from the taxpayers' standpoint and inconsistent with the Administration's broad environmental policy goals, particularly global warming.

Why aren't the federal departments and agencies owning these facilities correcting this situation on their own?

First, the budgetary impact of upgrading and retrofitting these facilities is estimated at upwards of $15 billion over the next 5 years. Federal appropriations of these amounts are doubtful in the present economic situation, especially if there is an alternative way to fund these costs. Second, any upgrading and retrofitting program will require expertise and experience that is not now available in each of the agencies and at the locations where they are needed. Competition for this expertise in the private sector is intense and the agencies would be at a competitive disadvantage if they sought to hire their own new operating staffs.

Why wasn't the private sector utilized before to operate these facilities?

With the change in the national security situation in recent years, there is no longer a need for a totally controlled "in-house" energy supply there once was. Equally important is the 1992 passage of EPAct, allowing, for the first time, private energy companies to operate electric generating plants in more than one state without subjecting themselves to extensive federal utility regulation under the Public Utility Holding Company Act of 1935.

How can the private sector solve this problem?

Enactment of EPAct has energized the independent power industry, and those engaged in steam plant operations by opening up opportunities to operate cogeneration plants in all 50 states. A large number of experienced, highly expert organizations are interested in new opportunities to apply modern steam and electric generating plant technology. Upgrading, retrofitting and operating federal facilities is just such an opportunity, particularly since the federal agencies' steam and/or electric power needs provide a base load market which can be coupled with electric power sales to utilities in the same region. These companies have demonstrated their ability to raise capital for these types of projects. In addition, many utilities themselves will be interested in the potential for modernizing and operating these plants when they are located in their service area. Thus, both the money and the people are available to solve the agencies' problems.

How does the proposed Forrestal Corporation facilitate the application of modern technology and private capital to the solution to this problem?

A federally sponsored, but privately managed and financed, special purpose corporation created by Congress would serve as an intermediary between the federal agency owning the energy facility and the private energy sector. Forrestal will marshal experienced energy management experts in energy technology, construction and operations, environmental compliance, finance, government operations and energy law and other key areas. The enabling legislation establishing the Forrestal Corporation would permit it to use a simplified procurement process which will facilitate effective response to the government's needs and reduce costs and time delays for everyone's benefit.

Would the federal agencies be forced to use the Forrestal Corporation for all their energy projects?

No. The legislative design establishes the Forrestal Corporation only as an additional option available to the federal agencies. The Forrestal Corporation, like any private entity, must prove the value and benefit of its services to its customers, in this case the respective federal agencies. The federal agencies would retain discretion with respect to utilizing their own present procurement methods or using the Forrestal process.

What exactly would the Forrestal Corporation do for the federal agencies?

Depending on the nature of the energy project proposed, Forrestal would:

- Help the agency in identifying and assessing its energy and related infrastructure needs.

- Provide individual facility audits to determine the most economic and environmentally acceptable means of meeting such needs.

- Develop business and financial plans for the energy facility.

- Develop the terms of "sale" of steam and electricity to the agency and for the lease or sale of the facility to a private operator.

- Directly contract with a federal agency to construct, upgrade, refurbish, retrofit and/or operate energy production and consuming facilities or negotiate contracts for the same between or among the agency and one or more private parties.

- Prepare and publish RFPs scheduling competitive bids for the right to perform all or part of an energy project.

- Evaluate responses and award contracts to qualified winning bidders.

- Function as a central objective source of energy-related technical, financial and contracting expertise for both the federal government and the private sector.

What type of corporation will Forrestal be and who would own and finance the Forrestal Corporation?

Forrestal will be a private, for-profit, taxpaying corporation organized under the laws of the District of Columbia. Except for some initial start-up capital which might be provided by the federal government either through the purchase of a special class of common stock restricted to government ownership or a debt instrument, the Forrestal Corporation would be financed completely by private means. There will be no government guarantees or other use of the full faith and credit of the United States. As proposed, the federal agencies will name 5 of the 15 directors, including the initial chairman of the corporation, and have certain special rights to protect the agencies' essential interests. Once a market is determined to exist for the corporation's Class A common stock, the private shareholders will elect the remaining 10 directors. The primary source of the corporation's revenues would be the collection of fees for its advisory and management services. The corporation would not have the authority to invest in an energy project or retain an ownership interest in an energy project or its associated stream of revenues without the approval of the head of the Agency involved.

What is the advantage of using the Forrestal Corporation process?

While Congressional action is required, the Forrestal Corporation has a number of advantages over having each department or agency handle its energy facility upgrading on a plant-by-plant basis by issuing its own RFP. The advantages include the following:

- Under this proposal, federal agencies would have the option of using Forrestal's streamlined procurement processes to work with the private sector in the development of new projects. This option would be an alternative to the Federal Acquisition Regulation (FAR) procedures, which were never intended to regulate the use of private sector financing in the first place and, if applied, would impede any effort to marshal private capital. Attempting to amend FAR would be counterproductive and could even compromise its original purpose of protecting the public interest in the disbursement of government funds to contractors.

- Necessary experience and expertise can be collected and made available to solving *all* federal agencies' energy facility operating and environmental problems. The private sector will gain respect for this experience and expertise. This will be necessary to maximize the private sector's participation.

- A broader vision of the mission to enhance the efficiency and environmental performance of all federally owned energy facilities will be applied to each federal agency and its facilities. This will greatly facilitate the attraction of private capital and modern technology to this mission. It will also provide a more rational and coordinated approach to the marketing of electricity to utilities that need to balance their total capacity and loads over extended periods of time.

Other solutions, such as having the departments and agencies upgrade the plants themselves or creating a government-financed corporation to take over the energy plants, are "budget busters" that will fail to take advantage of the competitive forces which can lower energy costs and improve environmental performance with state-of-the-art technology.

Will divorcing energy management from other management functions at the government installation erode accountability?

No. One purpose of private operation of energy facilities at government installations is to allow the installation's management to focus on the central mission of the installation, e.g., national security or research. The appropriate operating and lease agreements will protect the mission and establish a system to assure accountability of the operator in its support of the mission. Experience with third-party financing indicates there will be no dilution of the efforts to support the central mission.

Attachment C

Daniel V. Flanagan, Jr.

President and Chief Executive Officer, The Flanagan Consulting Group, Inc.

Daniel V. Flanagan serves as the President and Chief Executive Officer of The Flanagan Consulting Group, Inc. Mr. Flanagan has served in Washington, D.C. since 1977 and has led his own economic development consulting firm since January 1982. During this time, while specializing in industry restructuring and regulatory efficiency strategies, he has worked on a range of complex issues at both the legislative and executive branches of government.

Notable accomplishments relating to regulatory efficiency include railroad deregulation (The Staggers Act 1980), AT&T divestiture (SPRINT 1981), oil pipeline, trucking and natural gas deregulation in the 80's. Other legislative issues in which Mr. Flanagan has played a key role include: ERISA (1973), Reclamation Law (1982), Tax Reform/Utility Normalization (1986), Federal Energy Regulatory Commission (1988), The Clean Air Act (1990), The Energy Policy Act (Electricity 1992), and the North American Free Trade Agreement (NAFTA 1993).

He was appointed by the Speaker of the United States House of Representatives, to serve on the Congressional Infrastructure Investment Commission, and was elected as Chairman by his fellow members. He was honored for that work by the Construction Writers of America as their "1993 Construction Industry Man of the Year" for the inventive financing methods recommended to the Congress. He has appeared before dozens of audiences throughout the country concerning this effort.

His firm represented 35 major electric utility companies (1988-1992) across the country who united in a successful effort to reform the Public Utility Holding Company Act and encourage a competitive market in electric generating capacity as part of the "National Energy Policy Act" passed by Congress and signed into law in October 1992, with Mr. Flanagan in attendance, by President Bush. The results of that action in restructuring the electric utility industry are now being described everyday in American newspapers.

In 1993, Mr. Flanagan's consulting firm was retained by the Mexican government (SECOFI) to evaluate the various elements of that nation's infrastructure, due to past experience with similar industries in the United States, as part of the NAFTA effort and served as an advisor in the development of the financing strategy for the commissions established in the side agreements between the two nations.

Currently, Mr. Flanagan is assisting the National Education Association in the design of a strategy for financing, via pension fund investments, the telecommunications infrastructure for our nation's schools. Similarly, in 1986, he directed the Alliance for Philanthropy (composed of leading universities, hospitals, museums et al.) in supporting tax deductibility for charitable contributions. The firm is also representing Thyssen Henschel America, Inc. in an effort to assist with that company's high-speed transportation technology.

From 1977 until opening his own business, Dan Flanagan directed the Washington D.C. governmental affairs office for Southern Pacific Company. During his tenure with Southern Pacific, he focused on multiple issues including trucking and railroad deregulation (he attended the White House signing ceremony by President Carter for the Staggers Act), coal slurry, reclamation, and telecommunications (AT&T divestiture, as Southern Pacific founded SPRINT at that time).

Prior to joining Southern Pacific Company, he spent five years consulting with health benefit and retirement plans throughout the country and Canada with the following firms in both New York and San Francisco: White, Weld & Company, Wertheim & Company (Martin E. Segal Company) working on ERISA legislation in 1973, and the Milton Meyer & Company.

A native of San Francisco, California and a graduate of the United States Naval Academy, Mr. Flanagan served five years in the Navy. Two of those years were VietNam assignments.

Dan and his wife, Fonny, have two sons and reside in Virginia. He is a member of the Business-Governmental Relations Council, other professional organizations, the Washington Golf and Country Club and the Middleburg Tennis Club. He currently serves as a member on the Board of the United States Navy Memorial Foundation and the Georgetown Club.

Active in national Democratic Party politics, he has served as Chairman of various campaigns, political action committees, and was a founder of the Democratic National Committee headquarters building on Capitol Hill.

STATEMENT OF ANN C. STERN, CHAIRMAN AND CEO, FINANCIAL GUARANTY INSURANCE COMPANY

Mr. Chairman, members of the Subcommittee, my name is Ann Stern. I am Chairman and Chief Executive Officer of Financial Guaranty Insurance Company, a leading insurer of bonds issued by State and local governments and agencies to finance public infrastructure. I appreciate having been given the opportunity to talk with you today about innovative approaches to financing investments in America's infrastructure. In particular, I will address how the capital markets handle the risks associated with infrastructure investment, and the steps which the Federal Government can take to encourage innovative infrastructure financings.

The Subcommittee's inquiry into this topic comes at a particularly appropriate time. Last year, voters all across the United States told elected leaders an unusually unambiguous message. They want less intrusive government, tighter control of public spending, and lower taxes.

But in the one area in which Americans regularly get to vote directly on whether they want to increase public spending—the authorization of State and local borrowing to finance investments in schools, highways and other public facilities—a majority of Americans voted in favor of increased capital spending.

In 450 separate State and local elections, voters approved $6.7 billion of the $10.1 billion in new bonding authority that Governors, mayors and legislators had submitted for their approval. Outside California, where a $1 billion State transportation bond and several other large issues went down to defeat, the approval rate was 76 percent. Nationwide, 73 percent of the new bonding authority requested for local schools was approved, and an amazing 96 percent of the new authority requested for environmental facilities. The $6.7 billion total was the fourth-highest nationwide total approved by the voters on any Election Day in the past fifty years.

And 1994's results are no fluke. During the past 15 years, Americans have consistently registered their strong support for public investment where it counts most—in the voting booth.

Thus, even in the aftermath of a conservative landslide, elected officials need to read the election returns with some care. Americans may want smaller, more efficient government. But they also want safe, well-maintained roads, adequate supplies of clean water, and decent school buildings—and they're willing to pay for them. The challenge before the Subcommittee is to redefine the Federal Government's role in ways that fully support State and local efforts to meet these basic infrastructure needs.

MANAGING THE RISKS OF INNOVATIVE REVENUE-BASED FINANCINGS

It is important to recognize that increased investment doesn't always have to mean higher taxes. During the last 10 years, State and local officials have been very creative—and generally quite successful—in developing new ways to finance major capital projects, without asking taxpayers to pick up the tab. Throughout the country, more and more projects are being financed on the principle that the cost of capital improvements should be borne by those who benefit most directly from them. User-financed toll roads and "passenger facility charge" financing of airport improvements are two notable examples of recent innovations.

After a period of several decades in which it was assumed that Federal grants, matched by State and local appropriations, represented the only way to finance highway construction, toll roads have re-emerged as a familiar phenomenon on the American public works landscape. Notable examples include the Dulles Greenway in Virginia; the San Joaquin Hills, Riverside and Foothill/Eastern corridor projects in southern California; and the Harris County toll road network and the Dallas North Tollway in Texas.

Private bond insurers have played an important role in the growth of revenue-backed project financing. My own company, FGIC, has for example insured bonds issued to finance construction of both the Harris County and Dallas North toll roads. Our expertise in public finance, conservative underwriting standards and rigorous case-by-case analyses enable FGIC and other leading insurers to gauge accurately the creditworthiness of all types of projects—including those that are supported by complex or innovative revenue structures.

When we are asked to insure bonds issued to finance toll road projects, we scrutinize the issuer's estimates of future traffic growth—the forecasts of local economic growth on which these estimates are based—and how traffic might be affected by various recession scenarios. We look carefully at how much competition the toll road might encounter from free highways, and how sensitive demand for the new road might be to future toll increases.

We typically require "rate covenants" that commit the toll road authority to increase tolls, if necessary, to meet its debt service obligations. And in some cases, we may require a back-up pledge from some other revenue source to make up any shortfall in tolls.

In the case of the Harris County toll road network, for example, FGIC's willingness to insure the bonds resulted in part from the County's agreement to levy a special property tax surcharge to cover any shortfall in the highway's operating budget. If traffic continues to grow as expected, the toll road should not have to call on this pledge. But having the back-up revenue source was essential to qualifying the bonds for FGIC insurance, and for the Triple-A rating that comes with it.

The value we add to revenue-based finance does not come from our expertise alone. Our Triple-A claims-paying capacity provides investors with the comfort of knowing that all payments of principal and interest will be made on time and in full—regardless of any problems the issuer might encounter. Private insurers thus play a critically important role in permitting revenue-backed projects such as toll roads to gain access to the capital markets.

The need to rebuild or replace the Woodrow Wilson Bridge presents an interesting opportunity to use revenue-based financing to support an essential capital project. The bridge, which links the District of Columbia to Maryland and Virginia, is in serious disrepair, and will require major rebuilding or construction of a replacement facility within the next decade. Current estimates of the total project cost are in the billion-dollar range. Getting the project off the ground will require an agreement among the Federal Government, the District of Columbia and the two States—none of which, needless to say, is flush with cash.

As a vitally important link in the highway network that serves one of the nation's most heavily traveled areas, and with an average daily traffic volume of 167,000 vehicles, the Woodrow Wilson Bridge is precisely the type of facility that should be able to generate substantial income from those who use it. Even with a relatively modest one-dollar toll, that volume of traffic would generate more than $60 million in toll revenues each year.

As in the toll road projects I cited earlier, investment bankers and bond insurers will need to assess historic and projected traffic volumes, the sensitivity of traffic projections to toll increases or to changes in the local economy, possible competition from toll-free facilities, the allocation of responsibility for operation and maintenance, and the back-up pledges provided by the District, the States, or the Federal Government. Assuming favorable answers to these questions, the project would appear to be a natural candidate for revenue-based financing, enhanced by private bond insurance.

The simple fact that a stream of user-based revenues is available to support a project does not always ensure that the project will be considered a "bankable credit," or that financial guarantors will be willing to insure it. This reality is well-illustrated by the experience that local airport authorities have had with passenger facility charges.

Congress took an important step toward giving local authorities greater flexibility in financing airport improvements when it authorized them to impose passenger facility charges, or PFCs, of up to $3 per passenger. But because the imposition and use of PFC's are subject to the Federal Aviation Administration's approval—and because the law allows the FAA to withdraw that approval, even after improvements are under way—local authorities have found it virtually impossible to finance airport projects by borrowing against future PFC revenues.

(The PFC story is a classic example—although certainly not the only one—of the difficulty the Federal Government has in giving up the habit of telling State and local authorities what they can and cannot do, even when Washington is no longer picking up the tab.)

In several cases—including Nashville Airport and Maryland's Baltimore/Washington International Airport—FGIC has worked with airport officials and their investment bankers to patch this "credit hole" by pledging other airport revenues or other State revenues as a secondary source of support for bonds backed by PFCs. (In the case of Nashville Airport, FGIC agreed to drop the requirement for a back-up pledge of general revenues, should the Federal Government agree at some point in the future to "fix" the PFC problem.)

REDEFINING THE FEDERAL GOVERNMENT'S ROLE

Another important lesson from the recent experience of State and local governments with infrastructure financing is that increasing public capital investments need not involve major new Federal spending commitments. But it does require Fed-

eral programs and policies that support—or at least do not hinder—State and local efforts to address the issue.

The Congress should, for example, look to the waste-water treatment revolving loan fund program, established under the Reagan Administration, as a model for how to encourage greater (and more efficient) State and local investment, at a relatively modest cost to the Federal Government. Indeed, the Department of Transportation has already proposed to use a portion of Federal transportation money to capitalize "State infrastructure banks"—the transportation equivalent of wastewater treatment revolving loan funds—rather than as direct Federal reimbursement for State and local capital spending. Federal funds would serve in effect as startup capital, which when combined with the proceeds of State bond issues (or other State funds) would give States a highly flexible source of financing for revenue-generating transportation projects.

Under DOT's proposal, State infrastructure banks, or SIBs, could participate in the financing of highway, bridge, mass transit, rail or intermodal projects. SIB support for such projects could take a variety of forms, including:

- Long-term, low-interest loans;
- Subordinated debt financing;
- Construction loans;
- Equipment lease financing; or
- Credit enhancement.

State infrastructure banks, as proposed by DOT, could help overcome what in FGIC's experience is one of the most significant barriers to revenue-based financing of infrastructure projects—the up-front risks often associated with development and construction of these projects.

There are certain types of definable risk that investment bankers and bond insurers are quite skilled at evaluating—the risk that traffic volume on a new toll road or a new airline terminal will not grow as expected, or the risks associated with a severe local recession. And we know how to set interest rates or bond insurance premiums to compensate for such risks.

But there are other risks—especially those associated with the early stages of project development, such as environmental risks, long delays in permitting, and unforeseen design changes—that investors and financial guarantors find it much more difficult to quantify, and are therefore much more reluctant to take on. These risks are sometimes substantial enough to make conventional revenue-bond financing or private financing of otherwise feasible and desirable projects virtually impossible.

State and local authorities have come up with some innovative ways to address this problem. In the case of the San Joaquin Corridor projects, early stage development costs were financed through "impact fees" imposed on local developers rather than by borrowing—the public-sector equivalent of a private developer's equity investment. The San Joaquin Transportation Corridor Agency and its banker also devised an innovative refinancing arrangement to help reduce its long-term interest costs. The proceeds of bonds issued to refund the Agency's original BBB-rated bonds were placed in escrow. The terms of this borrowing provided that the refunding would actually take place only if the new road had been completed, had been in use for two toll years, and met certain pre-established traffic volume targets. Because most of the early stage risks would by this point have been overcome, the refinancing bonds could be issued at much more favorable interest rates.

State infrastructure banks could help solve the problem of up-front risks by giving the States a new range of options for dealing with such risks. SIBs could provide short- to medium-term loans—say, one to 5 years—to cover project development and early stage construction costs; or they could provide short- to mid-term loan guaranties. By providing this type of support, SIBs would permit municipal bond underwriters, insurers and investors to provide the long-term financing that is their real strength. Short-term financing, moreover, would have the added advantage of letting the SIBs recycle their money more rapidly.

ELIMINATING FEDERAL BARRIERS TO STATE AND LOCAL INNOVATION AND PRIVATE PARTICIPATION IN INFRASTRUCTURE FINANCE

Congress should also work to eliminate unreasonable Federal constraints on State and local authorities, and unnecessary impediments to private involvement in infrastructure development. There are many changes in Federal law and regulations that could help stimulate needed infrastructure investment; today I will cite only two such reforms.

First, during the past few years Congress has relaxed what was once an absolute ban on the imposition of tolls on interstate highways. But given current estimates

of the need for reinvestment in our highway network, and the reality of widespread resistance to tax increases, the time may finally have arrived for Congress to eliminate entirely restrictions on the imposition of tolls.

Generally speaking, the States are in a better position to determine where and when tolling roads and bridges makes financial and economic sense. Moreover, giving the States greater latitude in pricing highway use would also afford them greater freedom to pursue market-based, rather than regulatory, approaches to improving air quality.

The second change we would recommend is elimination of the requirement for local airport authorities to obtain FAA approval for imposition of passenger facility charges—or at a minimum, elimination of FAA's power to withdraw that approval once it has been granted. This would enable local authorities to finance major improvements by borrowing against PFC income, without having to pledge other aiport revenues.

Changes such as these would make it possible to increase revenue-based financing of transportation capital projects. And as in the case of the toll road and airport projects cited previously, FGIC and other private bond insurers stand ready to work with project sponsors to make revenue-based financing work more effectively.

Since its founding more than a decade ago, FGIC has been a strong supporter of innovative techniques for financing essential public facilities. We look forward to working with you to expand the range of infrastructure financing alternatives available to State and local governments. Thank you.

STATEMENT OF JOHN F. HERRITY, CHAIRMAN, INTERSTATE TRANSPORTATION STUDY COMMISSION

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to testify before you today. My name is Jack Herrity, and from December 1992 through 1994, I served as the Chairman of the Interstate Transportation Study Commission. The Commission was established and authorized by Section 1099 of the Intermodal Surface Transportation Efficiency Act of 1991 to "recommend new mechanisms, authority and/or agreements to fund, develop and manage the transportation system of the National Capital Region, and primarily focusing on interstate highway and bridge systems."

The Commission was composed of Federal, State and locally elected representatives of Maryland, Virginia and the District of Columbia, and was supported in its efforts by the Greater Washington Board of Trade. Over the past 2 years, the Interstate Study Commission has carefully examined the delivery system for interstate highways and bridges both within and outside of the National Capital Region, and worked closely with U.S. Department of Transportation officials and Federal, State, regional and local transportation experts. After a lengthy review process, the Commission concluded that the transportation planning process works relatively well, but that more needs to be done to implement the region's plans.

For consensus' sake, it was concluded that our recommendations should focus on the implementation of plans for one single-purpose interstate transportation need; the current level of regional consensus on the need for an enhanced Potomac River crossing at the Woodrow Wilson Bridge led us to believe that addressing the implementation of such a project would be the best test case. As you know, the Wilson Bridge links Prince George's County in Maryland and the city of Alexandria in Virginia. It serves as a vital link to the economy of both of these counties and the region as a whole. However, the complexities of responsibility for the existing bridge still make implementation of plans for replacing the bridge difficult.

Consider:

- The Woodrow Wilson Bridge is the only part of the interstate highway system owned by the Federal Government.
- In addition, the bridge is maintained and operated by a combination of Maryland, Virginia and the District of Columbia, yet no entity has full and clear responsibility for all aspects of this facility.
- Exacerbating the question of responsibilities is the deterioration of the facility. Designed to carry 70,000 vehicles per day, the bridge actually has a daily load of 160,000 vehicles, and also is frequented by heavy cargo vehicles. It was estimated in 1993–94 that the bridge had a remaining lifespan of 10 years.
- The bridge is the only drawbridge on the regional interstate network and the only piece of the Capital Beltway with only 6 lanes. The National Capital Region Transportation Planning Board forecasts that the volume of traffic in our region will increase by more than 70 percent by the year 2020.

All of these factors add to create a situation that will require the utmost in cooperation between the State of Maryland, the Commonwealth of Virginia, the District of Columbia and the Federal Government. Under such circumstances, the Interstate Study Commission concluded that the creation of a new interstate authority charged specifically with the implementation of plans being developed by the Woodrow Wilson Bridge Coordination Committee would be the most appropriate mechanism for ensuring the timely replacement and/or enhancement of the existing bridge to the satisfaction of all parties. The Commission recommended that this authority be composed of 13 members—four members each from Maryland, Virginia and the District of Columbia, appointed by the respective Governors and the Mayor and one citizen representative appointed by the U.S. Secretary of Transportation. We also recommended that this authority be created through interstate compact, and be granted a latitude of powers including ownership, operation and maintenance of a new facility, the ability to impose tolls, issue bonds and enter into contracts.

Central to this effort, however, is determining the level of Federal funding that will be dedicated to this project. One might say that at the very least this issue captured the attention of legislators in Maryland, Virginia and the District of Columbia from the beginning. Needless to say, each of the jurisdictions would like to see the replacement bridge receive full Federal funding in light of the Federal Government's ownership of the existing bridge.

It is not my intention today to begin a debate over Federal funding for this project; that is an issue that I leave in the capable hands of the members of this body. However, the legislation that is under consideration in each of the jurisdictions provides for the negotiation of a Federal share in exchange for assuming full and permanent responsibility for the bridge.

In closing, I would like to refer this committee to the Interstate Transportation Study Commission's full recommendations report, submitted to Congress on December 31, 1994, and urge your consideration of the Commission's recommendations. Today, the Woodrow Wilson Bridge has approximately 9 years of useful life remaining. A project of this size and nature will surely require at least that much time between project impact analyses, design and construction. With an authority in place to facilitate the implementation of the plans which the Woodrow Wilson Coordination Committee should be completing this spring, the National Capital Region can move one step closer to addressing this difficult interstate transportation problem.

Thank you for allowing me this opportunity to testify. I will be happy to answer any questions you may have.

Interstate Study Commission

Mr. John F. Herrity **(Chairman)**
Jack Herrity & Associates

VIRGINIA

The Honorable Frank R. Wolf
United States House of Representatives

The Honorable Robert Martinez
Secretary of Transportation
The Commonwealth of Virginia

The Honorable Patricia S. Ticer
Mayor of Alexandria

Mr. Bahman Batmanghelidj
Batman Corporation

(Alternate)
The Honorable Kathleen K. Seefeldt
Prince William County
Board of Supervisors

MARYLAND

The Honorable Steny H. Hoyer
United States House of Representatives

The Honorable James Lighthizer
Maryland Department of Transportation

The Honorable Stephen J. Del Giudice
Prince George's County Council

Mr. William Hellmann
Rummel, Klepper & Kahl

(Alternate)
The Honorable Carol S. Petzold
Maryland General Assembly

DISTRICT OF COLUMBIA

The Honorable Eleanor Holmes Norton
(Vice Chairman)
United States House of Representatives

The Honorable James Nathanson
Council of the District of Columbia

Jerry A. Moore III, Esq.
Linowes and Blocher

Mr. Cellerino Bernardino
Department of Public Works
District of Columbia Government

(Alternate)
The Honorable Harry L. Thomas
Council of the District of Columbia

STATEMENT OF RALPH STANLEY, UNITED INFRASTRUCTURE CO.

Good morning. My name is Ralph Stanley, and I am currently a senior vice president of United Infrastructure Company, a joint venture of Bechtel and Peter Kiewit, two diversified construction companies with international operations and combined revenues of more than $11 billion. United infrastructure is a newly formed developer whose purpose is the development, and ownership of infrastructure projects such as roads, bridges, wastewater and water plants, and airports. We are a company that was formed to assist in addressing the shortfall in infrastructure resources. We are also dedicated to working with your committee and others in developing policies at the Federal, State, and local level to encourage private involvement in infrastructure.

Prior to joining UIC, I served as the founder, chairman, and chief executive officer of the Toll Road Corporation of Virginia, the country's first effort at infrastructure privatization. I have also served here in Washington for 6 years as chief of staff to the Secretary of Transportation and Administrator of the Federal Transportation Administration, where I actively sought to increase the role played by the private sector in providing needed transportation infrastructure. I have also served on two Presidential commissions which examined both the potential for general privatization of government services as well as new means to involve private capital in the delivery of infrastructure projects. I speak of my background to demonstrate that I have been on both sides attempting to implement public/private partnerships, and am very well aware of what changes in Federal policy are needed to increase private investment in infrastructure.

It has been well documented that this country needs substantial increased investment in its basic infrastructure to remain competitive in a global economy. The public sector currently is spending $140 billion annually on infrastructure investments. Projections of the shortfall range from $40–$80 billion a year to meet our critical infrastructure needs. The United States Environmental Protection Agency alone projects the need for $200 billion in new finance over the next decade to bring communities into compliance with existing Federal mandates for clean water and clean air. The Federal Highway Administration has estimated that $29 billion a year is needed to merely maintain the conditions of this nation's roads and bridges. It is quite clear that these needs cannot be met by government alone, whether at the Federal, State, or local level.

The use of the private sector to develop, own, and operate infrastructure projects in partnership with the public sector has become a global trend in both developing and developed countries. According to a recent survey by the authoritative publication, *Public Works Financing*, more than 900 projects in 72 countries with a total requirement of almost $680 billion are in development or have been put under construction by private sponsors since the 1980's. This trend is evident from eastern Europe to the Asia-Pacific, where former Treasury Secretary Lloyd Bentsen estimated a need of $1 billion a *week* in China alone to meet that country's infrastructure needs. In the past 2 years, a number of funds have been created to meet this need, and many include American institutional investors such as insurance companies, banks, and pension funds. thus, as the competition for capital increases, we as a nation find ourselves in the position of providing resources from U.S. insurance and pension funds to finance improved infrastructure overseas. As our capital resources are utilized to improve the infrastructure of other nations, and their economies that compete with us, surely now is the time to remove the barriers that prohibit private investment and ownership of infrastructure in the United States.

I would like to focus the balance of my testimony on specific steps that the Congress can take in this session that will have a profound effect on freeing up private sources of capital to invest in America's infrastructure. This committee is charged with the task of making difficult choices on spending priorities, and the steps that are suggested here today will more than offset those reductions by leveraging the capital available and allowing for private capital to be invested.

ADOPT THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT

The Infrastructure Investment Commission upon which I served in 1993 also included:

- Neil Goldschmidt, a former mayor of Portland, Governor of Oregon and Secretary of Transportation;
- Kay Bailey Hutchison, now a U.S. Senator and formerly a treasurer of the State of Texas; and
- Frank Hanley, general president of the Union of Operating Engineers.

The commission was bipartisan, unanimous in its recommendations, and it recognized two fundamental truths: there would be a decrease in Federal funding and

new ways would be needed to leverage funds that were available. This committee is now confronting the former and needs the recommendations from that commission that were very ably incorporated into legislation written and introduced last Congress by Congresswoman Rosa DeLauro with the assistance of Robert Spring of Milbank, Tweed, and David Seltzer of Lehman Brothers. That legislation would establish a government corporation, the National Infrastructure Corporation (NIC) that would provide debt, equity, credit and risk insurance to private entities for revenue-based infrastructure projects. NIC would be funded with a 3-year capitalization through the sale of common stock to the Treasury. Total startup funds would be $1 billion a year for 3 years only, and any further investment would be prohibited. After a period, there would be a complete conversion to private ownership, at which point the Federal Government would be repaid.

NIC would provide four functions. First, it would make senior and subordinate loans as well as investments to private entities for revenue-based infrastructure projects. Second, it would provide limited financial insurance on the debt of projects that would have difficulty obtaining credit. Third, it would provide limited preconstruction risk insurance, and finally, it would certify the eligibility of projects for public-benefit bond status. Public benefit bonds, another commission recommendation, would allow pension funds to invest in infrastructure projects in a manner competitive with tax-exempt rates.

The establishment of NIC could be achieved quickly, and the funds for its capitalization could come from existing grant authorizations. Indeed, its function could be performed by a simple amendment to the charter of an existing government sponsored entity, such as Connie Lee. The result of the creation of an entity to perform the functions of NIC would be $30 billion worth of new infrastructure investment and three quarters of a million jobs.

CODIFY EXECUTIVE ORDER 12803

There are thousands of highway and other infrastructure projects that have been built with Federal grants during the past 30 years. A common feature of such grants requires a repayment of the Federal portion of the grant if the asset is transferred to the private sector. This restriction has prevented many such transactions, such as Albany, New York's attempt to sell and then lease its airport in 1989. In 1992, to increase private involvement in infrastructure, President Bush issued Executive Order 12803, which allows transfer of a facility but requires the city or State to repay the undepreciated portion of the grant. Nevertheless, the repayment requirement has hampered any real activity. This Congress should enact a measure that allows States and cities to transfer their federally aided highway projects, by sale or lease, so long as they are kept in their original use.

REMOVE CURRENT BAN ON TOLLS ON INTERSTATE HIGHWAYS

A recent estimate by the Federal Highway Administration indicated that there are $212 billion in needed highway work and $78 billion in bridge improvements needed on our nation's roads. Congress has gradually relaxed the ban regarding tolls on Federal-aid highways in the past 8 years, and in the next highway bill the current restriction on tolls on the interstate should be removed completely. This would be particularly helpful to repair the 280,000 bridges in the country that are unsafe. Our company is currently negotiating a franchise on the Tacoma Narrows bridge in Seattle that would allow tolls to be installed and improvements made to that facility, including the possibility of a new bridge, under a 50-year franchise.

I would also like to take this specific opportunity to urge the Congress to draft enabling legislation that would allow for a public-private partnership to design, build, finance, own, and operate a replacement facility for the existing Woodrow Wilson Bridge. Our company has joined with Brown & Root, a major international engineering and construction firm and part owner and general contractor for the Dulles Greenway, to pursue this project opportunity. We look forward to working with this subcommittee and the States of Maryland and Virginia as well as the District of Columbia and Alexandria. We are fully committed to the continued involvement of all affected political jurisdictions, and we are aware of the legislation currently under consideration to create a Woodrow Wilson Bridge Authority. In lieu of an authority, it may be wise to simply expand the charter of the Woodrow Wilson Study Committee to provide the necessary public oversight function for those political entities with an indirect interest in the project.

We are also following with great interest the current process to select the preferred alternative. This effort to select the alternative and complete the environmental impact statement should be completed by the public sector. We would like

to urge the Congress to support the preferred alternative when selected in every way possible.

We would suggest that the project can be realized more quickly by negotiating a franchise agreement after a preferred alternative is selected. We are prepared to discuss the principles of such an agreement with the relevant parties regarding an allocation of responsibilities and risk. The franchise agreement would include design work, environmental studies, traffic and revenue forecasts, and construction and operating period activities.

Finally, while the Federal share of funding remains to be determined, it is abundantly clear it will fall far short of the projects full costs. We believe some level of tolls are required, and that Federal funding should be given to pay for the development funds or used as subordinated debt as envisioned in ISTEA. Finally, consideration should also be given to tolling the existing facility by means of automated vehicle identification to raise the necessary funds for improvements and to ease congestion.

TAX CODE CHANGES

There are also several very simple changes in the tax code which, if made, would bring billions of additional investment into our nation's infrastructure. The single most significant barrier to infrastructure privatization is the rate difference between tax-exempt bonds, which increase the Federal deficit, and taxable bonds which do not. The first step would be the adoption of the public benefit bond also incorporated in the DeLauro bill, which would allow the nation's pension funds, with over $4.5 trillion in assets, to invest in infrastructure.

A second change would be to remove the current 5-year limit on operating and maintenance contracts, which has the practical effect of curtailing a private firms willingness to a make capital investment. This restriction should be abolished, and if it were, billions of dollars of capital improvements would be made to facilities such as wastewater treatment plants. These improvements would be made with taxable revenue bonds, which would have the additional benefit of adding revenue to the treasury.

A third change would be to eliminate the distinction between public and private ownership when it comes to the eligibility to use tax exempt bonds.

Tax exempt status should be made for all public-purpose infrastructure, or it should be eliminated for those facilities that are self-supporting.

CONCLUSION

These specific changes I have suggested can be achieved in this Congress and can be easily implemented. The cumulative effect would be to attract dollars of private capital to meet this nation's infrastructure needs, more than enough to offset whatever reductions in outlays for Federal grants are made in the budget. These suggested policy changes should be included in the budget resolution as policy issues to be reviewed by the relevant Senate committees and adopted in this Congress.

STATEMENT OF JAMES G. BOATNER, ROBINSON TERMINAL WAREHOUSE CORPORATION

Robinson Terminal Warehouse Corporation appreciates the opportunity to comment on future alternatives for financing major public projects such as improvements in the Woodrow Wilson Bridge. A very significant portion of our business is waterborne by oceangoing commercial cargo vessels and cruise ships which currently require opening the drawspan of the Woodrow Wilson Bridge.

Robinson Terminal has been in business on the Alexandria waterfront for over fifty years. The terminal unloads, stores and delivers primarily newsprint and other paper to newspapers, publishers and printers mostly in the Washington metropolitan area, but also in other areas of Virginia and Maryland as well as the Carolinas, Pennsylvania and Delaware. We have more than 40 customers, including *The Washington Post*, the *Journal* newspapers, *USA Today*, *The Army & Navy Times*, *The Winchester Evening News*, the *Free Lance Star* in Fredericksburg and *The Daily and Sunday Times* in Salisbury, Maryland. Cargo ships calling at our terminal carry between 3,500 and 5,000 tons of cargo and draw from 18 to 22 feet of water.

In recent years, there has been significant interest by commercial ocean-going cruise ships in Alexandria and the Washington metropolitan area. This has been a very welcome addition to the waterfront because of their very positive economic impact and because they add to the ambiance and attractiveness of the area. The multiplier effect of the spending of affluent cruise tourists directly benefits many different parts of the metropolitan economy.

Another important economic factor to the community is the greatly improved competitive situation that the availability of ocean freight rates bring. This alternative is important in controlling the costs of transporting certain cargoes. Without this competitive influence, railroad rates would rise dramatically.

Since colonial times, Alexandria has been an active seaport. This maritime heritage continues to be an essential element of the city's modern character. The key to the future of the waterfront is diversity and balance. An active, economically-viable waterfront depends on its accessibility for a variety of shipping, including commercial cargo vessels, cruise ships, Navy and Coast Guard ships, tall ships for special celebrations and pleasure crafts. It is very important that the future bridge alternatives be determined in light of current activities and potential growth of both the Alexandria and District of Columbia waterfronts.

Future navigation of the Potomac River by ocean-going commercial freighters and cruise ships above the Woodrow Wilson Bridge is a vital economic interest, not only for Robinson Terminal but also for Alexandria and the District of Columbia. To date, the federally-funded Woodrow Wilson Bridge Coordinating Committee has recognized these important maritime interests by providing for continued navigation in all of the alternatives under consideration for the Bridge's future. As this committee investigates future financing alternatives for the Bridge, it is imperative to continue the wise and properly balanced current policy of accommodating the legitimate interests of the maritime community.

May 18, 1995

The Honorable John Chafee
Chairman, Committee on
Environment & Public Works
United States Senate

The Honorable Max Baucus
Ranking Member, Committee on
Environment & Public Works
United States Senate

The Honorable John Warner
Chairman, Subcommittee on
Transportation & Infrastructure
United States Senate

The Honorable James Inhofe
United States Senate

Dear Gentlemen:

The undersigned strongly support legislation that will require state and local recipients of federal highway and transit funds to accept valid audits prepared by other appropriate federal and state agencies as a basis for establishing interim pre-contract overhead rates and to use the Federal Acquisition Regulations as a basis for negotiating contracting and paying engineering fees without the use of arbitrary ceilings on salaries or overhead rates.

Under these circumstances, we believe that costly multiple audits will be avoided saving precious federal funds and allowing contracts to proceed more promptly. In addition, engineering and architectural firms will not be excluded from competition or discriminated against on the basis of their overhead rates alone which, in our opinion, are no indication of relative efficiency but rather a reflection of how an individual firm accounts for its direct and overhead costs. Using the Federal Acquisition Regulations, focus will be placed on total contract costs which must be mutually agreeable to the client and the contractor before an agreement is reached. In this manner, a total cost will be contracted for that will represent a reasonable fee to the contractor and an acceptable cost to the agency. Use of arbitrary ceilings on salaries and overheads can exclude worthy firms from competition and often serves to unreasonably limit a firm's ability to provide employment benefits and staff training that are essential for attracting and retaining a qualified and skilled work force and preclude acquiring state-of-the-art technologies so essential to quality engineering services. If there are any questions, please contact any of us.

Sincerely,

Dr. Thomas D. Larson, P.E.
Former Federal Highway Administrator &
Secretary of Pennsylvania Department of
Transportation
Telephone (814)238-0848

Howard Yerusalim, P.E.
Former Secretary, Pennsylvania
Department of Transportation
& President of AASHTO
Telephone (717)691-1340

Gene McCormick, P.E.
Former Deputy Federal Highway Administrator
Telephone (202)783-0241

AMERICAN SOCIETY OF CIVIL ENGINEERS

Washington Office
1015 15th Street, N.W., Suite 600
Washington, D.C. 20005-2605
(202) 789-2200

April 5, 1995

The Honorable John Warner
Chairman
Subcommittee on Transportation & Infrastructure
410 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

On behalf of the more than 115,000 members of the American Society of Civil Engineers (ASCE), the country's oldest national engineering organization, I want to commend you and the committee for holding expeditious hearings on the National Highway System (NHS) and urge prompt passage of S. 440, the National Highway System Designation Act of 1995.

Because the focus of the committee's April 6, 1995 hearing is innovative financing options for transportation projects, I respectfully request inclusion in the hearing record of this letter addressing ASCE's position on infrastructure financing.

ASCE supports the development of new and innovative methods of financing infrastructure and retention and restoration of methods that have been proven successful in the past. These methods include:

1) The tax-exempt bond financing and related infrastructure funding strategies of the Rebuild America Coalition:
   a) providing tax incentives for public - private partnerships,
   b) creating tax-exempt municipal bonds,
   c) increasing purchases of governmental bonds
   d) expanding state revolving loan funds,
   e) creating a Federal Infrastructure Bond Bank, and
   f) enhancing the efficiency of municipal bonds;

2) The establishment of infrastructure financing agencies within the states to provide low interest loans for new construction, rehabilitation or replacement of infrastructure;

3) Federal loans to state infrastructure agencies to provide the initial and supplementary capital;

4) Private financing and operation of infrastructure components such as water systems, water pollution control plants, rapid transit, toll roads, landfills and similar facilities;

5) Application of equitable user fees to provide funds for proper operation, maintenance and establishment of sinking funds for replacement or rehabilitation;

6) Use of a multi-year capital development budget at the Federal level to separate the national investment needs from the operating expenses, so as to aid in planning infrastructure development;

7) Equitable use of development fees and impact fees to pay for new infrastructure construction;

8) Dedicated user taxes and trust funds to finance specific classes of infrastructure such as highways and airport/ airway systems, which require investment of trust funds in the facilities for which they are mandated;

9) Establishment of special service districts or other taxing authorities that can generate revenues to repay the bonds and operational costs of constructing and operating public works facilities; and

10) Increased use of federal funds and resources including federal laboratories, for infrastructure education, research, development and technology transfer.

ASCE also supports public awareness programs concerning the growing infrastructure crises and public participation on citizen advisory committees for planning, financing and operating infrastructure facilities.

There is a compelling need to fund restoration, rehabilitation, expansion or replacement of existing infrastructure just to maintain current levels of service. Mandated regulations and shifts in population and employment require the construction of new infrastructure. Traditional public financing procedures are competing with other important demands of society, such as social and welfare issues. Additional capital is needed to construct new more easily maintained infrastructure for the economy to grow and maintain a competitive position internationally. Therefore, new and innovative financing methods are needed.

Much of the nation's infrastructure was built in the last half of the nineteenth century or the first half of the twentieth century and it was generally financed by local government and private enterprise. Around the middle of this century the federal government invested heavily in infrastructure facilities such as waterways, dams, irrigation systems, highways, airports, water pollution control plants and urban transportation. Much of this investment was turned over to local governments for operation and maintenance. As we approach the end of the twentieth century, the nation's financial needs have expanded, and the roles and responsibilities of the state and federal governments have changed. Concerns of public leaders have changed to include providing more economically maintainable infrastructure as well as planning for life cycle funding to include the cost of maintenance. Hence, new and innovative methods of financing infrastructure need to be developed, and time-proven methods should be retained as well to meet these changing demands.

Mr. Chairman, I hope that ASCE's views on traditional and innovative methods of financing infrastructure projects will give you a framework to facilitate your exploration of this vital issue. In closing, I should add that ASCE strongly supports legislative efforts to move federal transportation trust funds off-budget, such as H.R. 842, the Truth in Budgeting Act. We look forward to the introduction of a similar Senate bill in the near future.

Mr. Chairman, your attention to ASCE's views and concerns is deeply appreciated.

Sincerely,

Stafford E. Thornton, P.E.
President

Maryland Department of Transportation
The Secretary's Office

Parris N. Glendening
Governor
David L. Winstead
Secretary
Thomas L. Osborne
Deputy Secretary

April 10, 1995

The Honorable John Warner
Chairman
Subcommittee on Transportation
and Infrastructure
SR-225 Russell Senate
Office Building
Washington DC 20510-4601

Dear Senator Warner:

Please submit this statement of the Maryland Department of Transportation for the hearing record, for your hearing that was on April 6, 1995 concerning the Woodrow Wilson Bridge Authority.

Thank you for your consideration.

Sincerely,

David L. Winstead

David L. Winstead
Secretary

cc: Ms. Ann Loomis
Maryland Congressional Delegation Staff

My telephone number is (410)- 859-7600
TTY For the Deaf: (410) 684-6919
Post Office Box 8755, Baltimore/Washington International Airport, Maryland 21240-0755

STATEMENT OF THE MARYLAND DEPARTMENT OF TRANSPORTATION

We are pleased to submit the Maryland Department of Transportation's position on legislation under consideration related to the improvement of the I–95 crossing of the Potomac River at the Woodrow Wilson Bridge. The subject bill would give congressional consent to a future interstate compact creating a regional authority to address the transportation issues at the I–95 Potomac River Crossing. This authority would (presumably) assume the Federal Government's responsibility for the existing Woodrow Wilson Bridge and would undertake improvements to the crossing through rehabilitation of the existing bridge and/or construction of a new parallel bridge or tunnel.

It is unquestionable that there are major problems associated with the Woodrow Wilson Bridge. These problems, which make the bridge a major bottleneck on the East Coast's interstate system, must be addressed at an early date. Engineering consultants have estimated that the structural condition of the bridge is such that its "useable life" is limited to less than 10 years; i.e., by the end of this period one will be required to either: (a) make very substantial and expensive improvements to the structure, and/or (b) impose severe restrictions on the use of the bridge. Furthermore, the bridge was designed to carry some 70,000 vehicles per day. It now carries 160,000 vehicles per day. Traffic is expected to increase to over 200,000 vehicles per day by the turn of the century. The existing six-lane bridge does not have adequate capacity to efficiently handle current traffic volumes.

The Woodrow Wilson Bridge Coordinating Committee, representing local jurisdictions and chaired by the Federal Highway Administration, has undertaken conceptual planning studies evaluating different options for improvements to the I–95 crossing. The committee has identified several preliminary alternatives that appear feasible. The cost of each of these is substantial; estimates range from in excess of $1 billion for a new bridge to $2 billion for a tunnel. These studies, which are being conducted pursuant to the requirements of the National Environmental Protection Act and relevant Federal transportation planning regulations, should result in a mid-1996 decision concerning a "recommended alternative." Additional environmental documentation, and Federal review and decisions concerning environmental impact statements, as well as preliminary engineering and other preparatory activities should follow in 1996 and 1997.

As indicated above, a purpose of the subject legislation is to approve an interstate compact creating an authority which would assume ownership of the existing bridge and undertake related improvements. The Commonwealth of Virginia has already enacted legislation to establish such a regional authority. The Maryland General Assembly is currently considering its version of the legislation. (It is our understanding that the District of Columbia has not begun its formal consideration of similar legislation.)

Although sharing the premise that there should be a regional entity which takes over the responsibility for the river crossing, the bill now under consideration by Maryland and the legislation passed by the Virginia legislature differ significantly in form and content. For the time being, there is not agreement between the local parties as to the precise nature and make-up of a regional authority. We anticipate that differences will be resolved so that legislation reflecting a common approach could be enacted no later than the 1996 sessions of the local jurisdictions' legislative bodies.

Under these circumstances, we recommend that legislation considered by Congress should be carefully worded so as to not prejudge the terms and conditions of the compact upon which local jurisdictions have yet to agree. While it is appropriate for Congress to endorse the concept of such an interstate compact, it would seem to be inappropriate for Congress to prescribe its terms. Specifically, issues related to scope and purpose of the authority, board composition, voting procedures, applicability of laws and regulatory practices should be left to the local jurisdictions to decide.

A second and equally important part of the legislation under consideration is the authorization of Federal funding for the project. The Woodrow Wilson Bridge is owned by the Federal Government. It is the Federal Government's responsibility to keep the bridge in good and safe condition. Maryland strongly believes that the Federal Government must fulfill its obligations in funding the rehabilitation of the existing bridge and/or new improvements.

The Federal Government has expressed interest in transferring responsibility for operation and maintenance of the Woodrow Wilson Bridge to local jurisdictions. there is general agreement that such a transfer would be appropriate. However, Maryland strongly believes that the Federal Government must carry out its financial obligations commensurate with its ownership of the bridge prior to any transfer

of the facility to a local entity. The Maryland General Assembly, in its consideration of compact related legislation, has clearly indicated that an agreement with the Federal Government providing for such Federal funding is a prerequisite to the formation of a new authority. Concern has been expressed about the creation of an authority that would transfer the financial obligations of the Federal Government to the users of the facility or to State and local governments.

It is important to note that a significant amount of funding will be required over the next several years for activities leading to the improvement of the I–95 crossing. It is essential that funds be provided to keep the project on schedule.

Ongoing planning, engineering, other preliminary activities, and planned rehabilitation work on the existing bridge will require $80 million to $100 million between fiscal years 1996 and 1997. Between fiscal years 1996 and 2000, a total of $150 to $250 million will be needed. (The figures vary widely because of the nature of the alternatives under consideration.) These preparatory costs include:

- $31 million to continue rehabilitation of the existing bridge,
- $.5 million for continuation of the conceptual design efforts,
- $60 million to $100 million for engineering, and
- $60 million to $120 million for right-of-way acquisition.

Provision of Federal funding is extremely important to the progress of this project. To carry out activities necessary to bring the project closer to implementation, as well as to continue the necessary rehabilitation of the existing bridge, it will be necessary to provide significant levels of funding in the next several years. The only available funding sources are Federal funds, or alternatively State and local funding. *The affected local jurisdictions cannot contribute $150–$250 million for project related preparatory activities.*

In short, it is necessary to authorize Federal funding for the project. Of the $44.6 million authorized by sections 1103 and 1069 of ISTEA, nearly $24 million has already been allocated. Clearly, additional funds must be authorized to carry out the activities described above. The current legislation, the National Highway System Bill, which will be enacted in 1995, and the subsequent reauthorization of surface transportation programs in 1997 offer logical opportunities to address the Federal funding issues pertaining to the project. In light of the status of legislative efforts to form an interstate compact, any funding provided in advance of the final agreement concerning the Federal share of project costs should be in accord with Federal Government's current sole responsibility for the bridge.

In closing, we reiterate our support for the efforts now underway to resolve the problems associated with the Woodrow Wilson Bridge. Maryland's Transportation Authority and State Highway Administration have had considerable experience in the operation and maintenance of regional facilities on the Interstate system. We believe that the region has achieved consensus on the need for major improvements to the I–95 Potomac River crossing, and that an authority is the most appropriate means of accomplishing this task. The crucial issue is funding—in particular the level of Federal funding commensurate with the Federal Government's responsibilities.

We applaud the leadership of the Senate Committee on Environment and Public Works in addressing these important issues.

TESTIMONY SUBMITTED

TO

THE UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

MAY 23, 1995

by

Mayor James F. Riehle

City of Lafayette, Indiana

20 North Sixth Street

Lafayette, Indiana 47901-1411

317-742-8404

FAX: 317-742-7703

Summary : The Lafayette Railroad Relocation Project was originally authorized in the Federal Aid Highway Act of 1973, Section 163 as amended, and re-authorized in the Surface Transportation Act of '87 and in ISTEA, Section 1108. A total of 42 at-grade rail crossings will be eliminated by the project. Design approval was received in 1981. Of five independently usable segments, the first, second, and third are done; CSX Relocation was achieved in 1994 and all associated construction will be done this year; construction began in 1994 on the fifth and final segment - Norfolk Southern Relocation. An estimated two-thirds of the project benefits are realized only with the last contract which eliminates the final 24 at-grade rail crossings. The State of Indiana has provided ten different state funding grants in the last decade. With the unanimous approval of the Lafayette City Council, bonds were sold last year as part of the financing commitment for the City's non-federal share. The community is seeking additional federal funding of $12 million in FY '96 and $22.6 million in FY '97 to finish the project. If available, all of these funds could be obligated in FY '96.

I am Jim Riehle, Mayor of Lafayette, Indiana, and I appreciate the opportunity to provide written testimony about the Lafayette Railroad Relocation Project. On behalf of the City of Lafayette, I would first like to express my thanks for past funding which has facilitated construction of four and a half of the five segments comprising the project. Senator Lugar and Senator Coats have worked closely with the City in reaching these milestones which represent 77% of the project. This vital infrastructure project was originally authorized under Section 163 of the Federal Aid Highway Act of 1973 as amended and was included in the surface Transportation Act of 1987 and in ISTEA, Section 1108. The City is requesting additional federal funding of $12 million in FY '96 and $22.6 million in FY '97 to finish the project. If available, all of these funds could be obligated in FY '96 as the schedule included with this testimony shows.

If you will refer to the brochure (bound into the testimony as Exhibit D), the scope of the project will become clearer. The City is consolidating Norfolk Southern and CSX Transportation tracks, shown in gold, into a single new corridor, shown in red. Notice the CSX tracks going along 14 blocks of a central city thoroughfare; one of the photos on the back page of the brochure shows that conflict--*but no longer!* Last summer, thanks to your past support, those tracks were relocated after 141 years of having trains run into cars.

The color photo at the beginning of Exhibit A gives you an overview of our construction progress through four segments. The City has aggressively obligated all of the previous federal funds you have made available. Specifically, the Greater Lafayette Community celebrated these construction milestones in 1994:

July 6: **Depot Plaza Ground Breaking**
July 22: **CSX Relocation** from 5th Street to new tracks
Sept. 8: **Fifth Street Reconstruction** notice-to-proceed
Sept. 16: **Big Four Depot Move** to new plaza location
Sept. 30: **Norfolk Southern Ground Breaking** first contract, final segment.

(See Exhibit A for other photos and news accounts.)

With CSX Relocation, 18 crossings have been eliminated by the project. But our goal is 42. The 24 most dangerous at-grade crossings will be eliminated only when the final Railroad Relocation contract is done (see Exhibit B). And it is support for that last contract that the City is requesting.

With 35,000 students attending Purdue University across the Wabash River in West Lafayette and significant industrial expansion occurring east and south of Lafayette, the highway traffic conflict with trains is rapidly accelerating.

Ambulances, fire and police vehicles, 9 of 14 bus routes, and approximately 13,000 vehicles are stopped daily by trains. There are 12 to 16 accidents annually (graphically shown in the last article in Exhibit A). The present track location also depresses the economic potential of large portions of the central city and impedes the flow of interstate rail commerce.

Our current efforts to solve this crippling situation began in 1969, and the project has been the top priority of my administration in the twenty-three years I have been mayor. Since 1976, Railroad Relocation has been a separate department of City government run frugally but effectively by just three full-time employees for most of its history. In 1979 the project office was established in the Big Four Depot. As you can see from the Construction Digest cover story in the middle of Exhibit A, the 550 ton Depot was moved to a new location last fall for restoration and use as an intermodal facility.

Public participation has been the guiding force for the City's endeavors. The quality of our design and our public participation process received national acclaim in 1981 when the Design for Transportation National Awards Program selected the Lafayette Railroad Relocation Project to receive one of only 17 awards for design excellence out of 250 entries. This last April, the project again received national recognition when the Federal Highway Administration presented one of eight environmental excellence awards to the project.

We are proud of this award winning design which successfully threads a new rail corridor through an existing urban area in a way that has evoked broad public approval. Indiana governors of both political parties have approved ten state grants in the last decade. Railroad cooperation has been outstanding as tangibly evidenced by commitments to donate over twenty acres of central city land. With unanimous approval of the bi-partisan Lafayette City Council, economic development income tax bonds were sold last year as part of the financing commitment for the City's non-federal share. The project also has the continuing support of the mayor of West Lafayette and the county commissioners, as well as neighborhood, environmental, business and labor groups--a near unanimous consensus on a complicated public policy question that touches everyone in our community. (See letters in Exhibit C.)

However, an estimated *two-thirds of the project benefits are realized only with the completion of the final contract when the last 24 at-grade rail crossings will be eliminated.* To stop just short of completion would waste the large investment already made and would deal a severe blow to public confidence in government generally.

Because of critical safety, infrastructure, and economic revitalization needs; because of overwhelming public support and two decades of bi-partisan political effort at the local, state, and federal level; and because of a proven record of construction accomplishment; I respectfully request your support for additional federal funds to proceed with the final contract of the Lafayette Railroad Relocation Project. Thank you.

James F. Riehle

James F. Riehle, Mayor
City of Lafayette, Indiana

93-534 O - 96 - 9

CONSTRUCTION SCHEDULE
TO COMPLETE
LAFAYETTE (INDIANA) RAILROAD RELOCATION PROJECT

		'95			1996				1997				1998				'99	
SEGMENT #1	COMPLETED 1987																	
SEGMENT #2	COMPLETED 1992																	
SEGMENT #3	COMPLETED 1993																	
SEGMENT #4 - CSX Transportation Relocation																		
PRIMARY CONTRACT	COMPLETION: June, 1995	XX																
DEPOT PLAZA	COMPLETION: Sept., 1995	XXXX																
FIFTH STREET RECONSTRUCTION	COMPLETION: Oct., 1995	XXXXX																
LANDSCAPING PLANTING	BID-LETTING: June, 1995		XXXXXXXXX															
SEGMENT #5 - Norfolk Southern Relocation																		
Design		XXXXXXXXXXX																
Right-of-Way Engineering		XXXXX																
Land Acquisition - Final Phase			XXXXXX															
BRIDGES AT WABASH & 9th	COMPLETION: Oct., 1995	XXXXX																
EMBANKMENT	BID-LETTING: Jan., 1996		XXXXXXXXXX															
BRIDGE AT US 52	BID-LETTING: May, 1996					XXXXXXXXXX												
BRIDGE AT SR 25	BID-LETTING: Nov., 1996						XXXXXXXXXXXXX											
NS TRACK RELOCATION	*Ready for letting: Aug., 1996*						XXXXXXXXXXXXXXXXXXXXX											
(24 grade crossings eliminated bringing total to 42)	*with add'l. fed. funds*																	

Exhibit A: PHOTOS AND NEWS ARTICLES

> Lafayette Railroad Relocation Project Construction, Lafayette, Indiana, February 1995 (Courtesy of PSI Energy).

> *Lafayette Journal & Courier* Front Pages; July 21, 22, 23, 1995.

> "Historic Railroad Structure Relocated," *Construction Digest;* December 12, 1994.

> "End of the Line," *Lafayette Journal and Courier*, September 22, 1994.

> "Truck Hit By Trains; No Injuries," *Lafayette Journal and Courier,* February 2, 1995.

Exhibit A: PHOTOS AND NEWS ARTICLES

Segment 1
COMPLETED 198
Segment 2
COMPLETED - 1993
Segment 4
UNDER CONSTRUCTION
COMPLETION 1-95
Segment 3
COMPLETED - 1994
Segment 5
Final Contract
Under Construction
LAFAYETTE RAILROAD RELOCATION PROJECT
Lafayette, Indiana
February, 1995

It's Thursday,
July 21, 1994

Journal and Courier
Lafayette-West Lafayette, Indiana

ON A NEW TRACK

The last train leaves Fifth Street

Top photo by M O McCarter courtesy Monon Railroad Historical Technical Society Inc
Center photo by Michael Clevenger/Journal and Courier

TOP: Monon Railroad diesel engine 84 passes in front of the old rail depot — now the Civic Theater — in 1947. CENTER: Even the downtown sculpture has caught railroad relocation fever, with packed bags and a sign that reads, "Waiting for the last train on 5th Street."

By DAVID SMITH
Journal and Courier

On Friday, Lafayette residents will celebrate the last train to rumble slowly along Fifth Street.

It will be an event tinged with joy and sadness, as one of Lafayette's oldest and most unique institutions—and surely one of its most annoying— comes quietly to an end.

"I'll miss 'em," said Michelle Wood, a bartender at the Knickerbocker Saloon, 133 N. Fifth St. The Knickerbocker is perhaps the only remaining business in downtown Lafayette where it may be said trains make a material contribution.

Wood said the freight train that nightly passes outside the saloon impresses new customers and adds atmosphere to an establishment that bills itself as Indiana's oldest bar, founded in 1835.

"At two in the morning, when the blues are playing, the train going by is nice," she said. "I've seen plenty of people jump the train, too. They stumble out of here and jump the train. They go about a block."

But even Wood, a South Bend native who has lived in Lafayette three years, said the train aggravates her at times.

"I don't like waiting for them when I'm trying to get some place," she admitted.

Indeed, in an age of jet travel, fax machines and cellular telephones, the charm of counting the cars of a passing train while trying to get to a business appointment, ballgame or wedding has worn pretty thin.

Rick Wheeler, owner of the Downtowner Restaurant at Fifth and Main streets, said an ill-timed train at noon "can cut my trade in half."

Moreover, he said, potential

See RAILROAD, Page A4

INSIDE:

- Residents relocated / A5
- Rails dried up canal / A5

COMING FRIDAY:

Rail relocation a major achievement for Lafayette Mayor James Riehle.

FRIDAY'S CEREMONIES

- **Last train on Fifth Street:** 8 a.m., Fifth between Main and Columbia streets
- **First train on new corridor:** 8:15 p.m. Temporary Amtrak Boarding Platform, Alabama and Second streets.

HISTORIC EXCURSIONS

Irvine Travel (743-2116) is offering trips for train buffs

- **Last train on Fifth Street:** Bus leaves Lafayette city parking lot 6:45 a.m. for Crawfordsville. Departing 7:48 a.m., train arrives in Lafayette 8:20 a.m.
- **First train on new corridor:** Bus leaves city lot 6 p.m. Departing from Rensselaer 7:34 p.m., train arrives 8:20 p.m.
- **Cost for each trip:** Adults $20; children $14.

The project at a glance

Railroad relocation is a $150 million plus project to eliminate 42 grade crossings by moving trains into a conflict-free rail corridor. Spent to date: $114 million. Main funding source: Federal gasoline tax.

PHASE 1
Wabash Avenue underpass. Allows cars to drive under south end of new rail corridor. Finished 1987. Crossings gone: 4.

PHASE 2
Indiana 26 bridge over Wabash River. Replaces Main Street Bridge. Permits cars to cross over rails. Finished 1992.

PHASE 3
North Ninth Street underpass. Finished 1993. Allows cars to drive under rail corridor at Ninth Street. Crossings gone: 1.

PHASE 4
CSX relocation. Last train on Fifth Street is Friday. Unfinished Depot Plaza (1995), Harrison Bridge ramps (1994). Crossings gone: 13.

PHASE 5
Norfolk Southern relocation. Connects new corridor to NS, eliminating double tracks through town. To be done 1998-99. Crossings: 24.

It's Friday,
July 22, 1994

Journal and Courier
Lafayette–West Lafayette, Indiana

ON A NEW TRACK

Persistence has paid off

By DAVID SMITH
Journal and Courier

When the last train rolls off Fifth Street today, it will signal the beginning of the end for a railroad relocation effort that has spanned more than 60 years.

And no one will breathe a bigger sigh of relief than six-term Mayor James Riehle, whose 23 years in the mayor's office have been defined largely by efforts to remove trains from city streets.

If and when Riehle retires — he hasn't said whether he'll run again in 1995 — he'll likely be remembered as the person most responsible for the success of railroad relocation.

That's not how he would put it, however.

"It will be the culmination of a great effort, a great community effort in my judgment," Riehle said.

"The community was pushing railroad relocation for a long, long time — long before I was mayor. I think I was fortunate enough to be mayor at the time we achieved that. I've always pointed out — and I think it's the most overriding factor in why we succeeded — the strong community support that we've had."

History, however, will record that Riehle was the only Lafayette politician in office long enough to see the project through from beginning to end — or at least the beginning of the end.

But Riehle is more than satisfied to have made it thus far.

"We've been working on railroad relocation for a long time. With the last train, first train

See RAILROAD, Page A6

By Michael Clevenger/Journal and Courier

Lafayette Mayor James Riehle holds a petition presented to the Lafayette city council in 1853. Signed by about 540 Lafeyette residents, the petition asks the city not to give a railroad any money.

INSIDE:

- Plans for new depot / A7
- Editorial / A8

COMING SATURDAY:

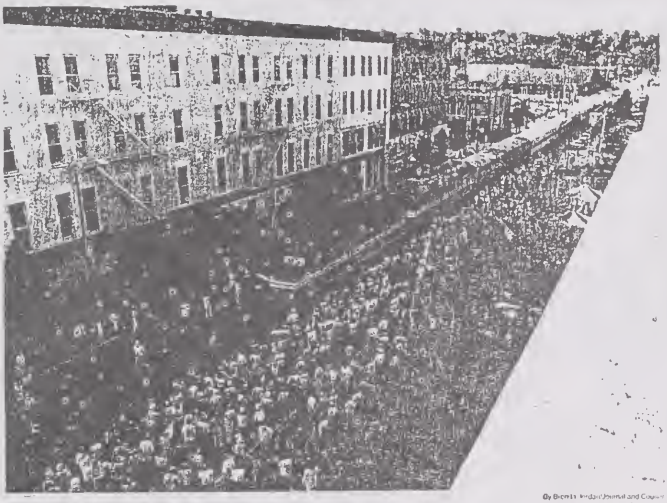
Extensive coverage of today's historic final train ride on the Fifth Street tracks.

TODAY'S CEREMONIES

- **Last train on Fifth Street:** 8 a.m., Fifth between Main and Columbia streets.
- **First train on new corridor:** 8:15 p.m. Temporary Amtrak Boarding Platform, Alabama and Second streets.

It's Saturday,
July 23, 1994

Journal and Courier
Lafayette-West Lafayette, Indiana



By Brent Hedal/Journal and Courier

More than a thousand spectators and well-wishers on Friday welcome the last Amtrak train to roll down Fifth Street into downtown Lafayette.

ON A NEW TRACK

By Frank Oliver/Journal and Courier

Mayor James Riehle waves upon arrival at Fifth Street. With him are his wife, Tee Dee, and Ron and Marlene Campbell. Ron is on the Lafayette City Council.

Last train out

By DAVID SMITH
Journal and Courier

ABOARD THE HOOSIER STATE — The train tracks on Fifth Street hold special meaning for guys like Robert Prien, a retired Monon engineer who got paid for driving down the middle of the street.

Sure there were collisions, but they weren't all bad. One time, Prien recalled Friday during the last train ride into Lafayette on the Fifth Street tracks, his engine stopped a burglary in progress at the Coca-Cola bottling plant at Salem Street.

"We nailed the guys that robbed the plant. There were quarters, dimes and nickels all over the street," he said. "You know, they never gave us an award for stopping 'em."

Prien was among more than 200 people who boarded the Amtrak Hoosier State at Crawfordsville for the historic last train ride into Lafayette on the Fifth Street tracks.

Crowded cars, a late start and a 21-minute delay en route failed to dampen the spirits of the men, women and children on board.

For many, it was their first train ride. For all, it was the final ride into town on the train tracks first installed down the middle of Fifth Street 112 years ago. For many years the tracks were owned by the Monon Railroad, now part of CSX Corp.

"It's unbelievable after two decades of work that it's really happening," said Elizabeth Solberg, Lafayette Railroad Relocation project manager.

The Fifth Street tracks were taken out of service at 9:30 a.m. as the final Amtrak train headed north out of Lafayette, bound for Chicago. Due to the hoopla associated with the "Last Train" events and other normal delays, the train was 55 minutes late arriving in Lafayette and 70 minutes late leaving.

The opening of the new rail corridor on Friday marked a milestone for Lafayette Railroad Relocation, a $150 million federally funded project aimed at removing tracks

See LAST, Page A6

INSIDE:

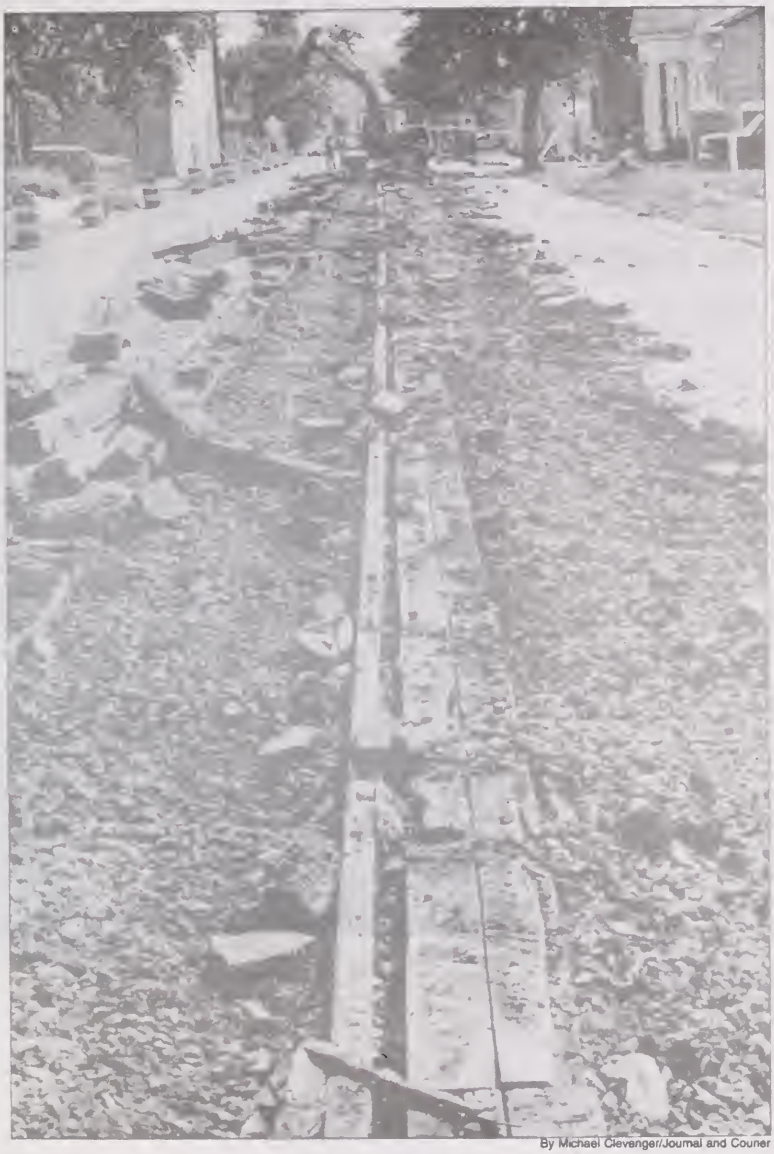
► Taking part in history / A6
► Norberg column / A6
► The day in photos / A7
► Editorial / A8

When the tracks move, so must the depot

Historic structure relocated; part of the realignment of railroad routes

A

End of the line



By Michael Clevenger/Journal and Courier

Workers remove blacktop and railroad ties Wednesday along the CSX tracks on Fifth Street downtown. Today, they will start removing the tracks themselves. That work, storm sewer installation and repaving the street is expected to take a year.

J&C 9/22/94

Journal and Courier
Page
A6 Local editor:
Shelley Acoca / 420-5231
Thursday, February 2, 1995

Truck hit by trains; no injuries

By AMY HIGGINS
Journal and Courier

Just as Sean Simmons was crossing the railroad tracks at Sixth and Romig streets in his 1965 GMC pickup, the clutch popped and the engine died. Then he saw the trains.

The truck was sandwiched between the two Norfolk-Southern trains just after Simmons, 16, and his mother, Kellie, and his sister, Nicky, bailed out.

No one was injured in the wreck, but traffic to and from downtown Lafayette was brought to a standstill.

The northbound train hit the truck first, catching part the truck under it. Then, the southbound train squashed the truck, reducing it to a tangled mass of metal.

"Now that I see it, it's like 'Oh,man!'" Kellie Simmons said when she first saw the destroyed truck.

She said there was plenty of time to jump out of the truck before the trains hit. The problem was that she and her daughter jumped to one side of the tracks and her son went on the other. They weren't able to join up again until the trains moved 2½ hours later.

Lafayette police and firefighters had to pull the truck from under the train with a wrecker. The initial impact burst the truck's fuel tank, and further movement caused more gas to spill, so firefighters immediately hosed down the area to neutralize the fuel.

The ordeal — which attracted a gaggle of onlookers — lasted from 5:40 p.m. to 8:10 p.m.

Meanwhile, angry drivers were wondering what the holdup was. Many tried to find ways around the stopped trains.

Yishun Han of West Lafayette said he stayed in the traffic jam because he thought it would be quicker and easier than trying to go around.

Melissa Lowe was in surprisingly good spirits. The Purdue University student sat on South Street for more than 30 minutes Wednesday trying to get to the interstate.

By Frank Oliver/Journal and Courier

Lafayette police officer Rick Welcher speaks with railroad employees about Wednesday evening's truck-train collision near Sixth and Romig streets.

Exhibit B: SEGMENT #5 - NORFOLK SOUTHERN RELOCATION

> 24 Crossings Eliminated with Norfolk Southern Relocation (fifth and final segment of the Lafayette Railroad Relocation Project).

Exhibit B: SEGMENT #5 - NORFOLK SOUTHERN RELOCATION

SEGMENT #5
NORFOLK SOUTHERN RELOCATION

24 of the 42 Railroad Relocation Project's grade crossings are eliminated as part of the final contract of SEGMENT #5

- Rail Corridor, Segment 5
- Rail Corridor, Segment 4 (NS Tracks in Segment 5)
- Norfolk Southern Bridge
- Pedestrian Bridge
- Embankment or Berm
- Existing RR Grade Crossings

Exhibit C: LETTERS

Government		
Stan C. Smith	Commissioner	Ind. Dept. of Transportation
Sonya L. Margerum	Mayor	City of West Lafayette
Nola J. Gentry, William D. Haan, Gene Jones	Bd. of Commissioners	Tippecanoe County
Steven C. Beering	President	Purdue University
James A. Hawley	Executive Director	Tipp. Cty Area Plan Commission
Railroad		
David R. Goode	Chair., Pres., CEO	Norfolk Southern Corp.
Community		
Joseph A. Bonner	Chair., Pres., CEO	Lafayette Bank & Trust
Terri E. Boone	Executive Director	Hanna Community Council
Roger D. Branigin, Jr.	Partner	Stuart & Branigin
Joseph T. Bumbleburg	Partner	Ball, Eggleston, Bumbleburg & McBride
Norman Childress	Secretary/Treasurer	Tippecanoe Building & Construction Trades Council
Sam Copeland	Business Rep.	N. W. Indiana District Council of Carpenters
Douglas W. Eberle	President	St. Elizabeth Hospital Medical Center
M. A. Flexsenhar	General Manager, Large Engines	Caterpillar Inc.
David L. Francis	President	NBD Bank, N.A.
W. L. Hancock	Northwest Region Mng.	PSI Energy
Jim Hodson Susan K. Smith Gordon Kingma	President, and Executive Director	Downtown Business Center
Jim Kleck	Plant Director	Eli Lilly and Company
Robert B. McDonald	President & CEO	Great Lakes Chemical Corp.
James K. Risk, III	President	Kirby Risk Supply Co.
Thomas R. Schmenk	President	Wabash River Parkway Commission
Joseph H. Seaman	President & CEO	Bank One, Lafayette, NA
C. Wesley Shook	Secretary	The Shook Agency
James C. Shook	President	The Shook Agency
E. Dana Smith	President	Greater Laf. Chamber of Commerce
Patricia Stephenson	Executive Director	Lafayette Neighborhood Housing Services
Joann L. Wade	Executive Director	Greater Lafayette Convention & Visitors Bureau
R. M. Whitsel	President	Lafayette Life Insurance Co.
James M. Woroniecki	Vice President	Subaru-Isuzu Automotive Inc.

INDIANA DEPARTMENT OF TRANSPORTATION
100 North Senate Avenue
Room N755
Indianapolis, Indiana 46204-2249
(317) 232-5533 *FAX: (317) 232-0238*

EVAN BAYH, Governor
STAN C. SMITH, Commissioner

Writer's Direct Line:
(317) 232-5643

May 26, 1995

The Honorable John Chaffee, Chairman
Senate Environment and Transportation Committee
Senate Dirksen Office Building - Room 410
Constitution Avenue and First Street NE
Washington, D.C. 20515

Dear Senator Chaffee:

I am writing to convey the State of Indiana's support for the Lafayette Railroad Relocation Project, more specifically for an increase in Lafayette's contract authority in Section 1108 of ISTEA for this project for FY 1996 and FY 1997. Indiana has supported this project in the past with over $4.6 million in grants from state funds.

The primary focus of the project is the rerouting of two major rail lines from downtown Lafayette which will result in a substantial reduction in congestion and greatly increase safety in the city. The reduction in congestion and the improved crossing safety will be a tremendous asset to the continued economic growth and prosperity of Lafayette as well as to major highway arteries which will become part of the National Highway System.

The funding provided through the Surface Transportation and Uniform Relocation Assistance Act of 1987 and ISTEA have been crucial to the success of this project in the past, allowing for the first four phases to be constructed. Without an increase in authorization as well as approval of necessary funding, the final phase cannot be completed. With the final contract comes the most significant project benefit - the elimination of an additional 24 railroad crossings, bringing the total to 42 crossings eliminated.

Once again, I write to express my appreciation for past funding for this project from the various authorizations and hope you can support this project with an increase in authorizations for FY 1996 and FY 1997.

Sincerely,

Stan C. Smith

Stan C. Smith

SCS/RW/ct
cc: file
RS123000.wp

City Hall
609 West Navajo Street
West Lafayette, IN 47906-1995
Mayor Phone & TDD 317-463-3571
FAX 317-463-9544
Clerk-Treasurer Phone 317-497-3691
FAX 317-497-0335

May 11, 1995

Same letter sent to Senator Dan Coats

Senator Richard G. Lugar
306 Hart Building
Washington, D.C. 20510

Dear Senator Lugar:

The citizens and government of West Lafayette have long recognized the need to relocate the railroads in Lafayette. We remain strongly committed to completing the Lafayette Railroad Relocation Project.

We would like to thank you for your support in reaching the many milestones achieved this year and we want to encourage you to work for funding to complete the project.

If additional federal funds are made available, the City will be able to put under contract in FY '96 the final project element - the Norfolk Southern Relocation - which will eliminate 24 at-grade crossings and bring the project total to 42.

After more than twenty years of intense community efforts, and with the end in sight, it is vitally important to complete this award winning project.

Sincerely,

Sonya L. Margerum

Sonya L. Margerum
Mayor

TIPPECANOE COUNTY BOARD OF COMMISSIONERS

County Office Building
20 N. 3rd Street
Lafayette, Indiana 47901-1214
(317) 423-9215
Fax: (317) 423-9196

Nola J. Gentry
William D. Haan
Gene Jones

April 24, 1995

The Honorable John Myers
United States House of Representatives
2372 Rayburn Office Building
Washington, D.C. 20515

Dear John:

We support the completion of the railroad relocation project in the City of Lafayette. The final phase will eliminate 24 at-grade crossings on the Norfolk Southern line.

Although this has been a costly project, we think the relocation project has and will improve the flow of traffic and increase the level of safety for the citizens of our county.

We join Mayor Riehle in thanking you for your assistance on the Lafayette Railroad Relocation Project.

Respectfully yours,

Nola J. Gentry, Pres.

William D. Haan, V.Pres.

Gene Jones, Member

NJG/sb

Commissioners' Assistant
Vickie J.E. Rhine

Executive Director, Highway Department
Stephen L. Murray

Personnel Director
Frank H. Cederquist

PURDUE UNIVERSITY

STEVEN C. BEERING
PRESIDENT

April 11, 1995

Mayor James F. Riehle
City of Lafayette
10 South Second Street
Lafayette, Indiana 47901

Dear Mayor Riehle,

Since its inception, I have followed the progress of Railroad Relocation in Lafayette, and I have been impressed throughout with the careful planning and flawless execution that have gone into every phase of the project. I remain convinced that its completion will bring a new era of economic development to Greater Lafayette.

As you seek funding to complete the final phase of Railroad Relocation, please be assured that you have my wholehearted support for this important endeavor.

Sincerely,

Steven C. Beering

1031 HOVDE HALL, ROOM 200 • WEST LAFAYETTE, IN 47907-1031 • (317) 494-9708

THE Area Plan Commission of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(317)423-9242
(317)423-9196 [FAX]

JAMES D. HAWLEY, AICP
EXECUTIVE DIRECTOR

May 4, 1995
Ref.: 95-294

The Honorable John T. Myers
2372 Rayburn House Office Building
Washington, D.C. 20515

IN RE: Lafayette Railroad Relocation Project

Dear Congressman,

As the Area Plan Commission of Tippecanoe County's Executive Director, I have been requested to provide you with relevant information concerning the ongoing Lafayette Railroad Relocation effort and its relationship to the community's transportation plan.

On January 1, 1976, our organization was designated the Metropolitan Planning Organization for the Greater Lafayette Indiana urbanized area. Early in 1976, we entered into a transportation planning program which culminated in the first Long Range Transportation Plan for our community. That plan incorporated relevant portions of the Railroad Relocation project proposal. The year 2000 Transportation Plan anticipated relocation of the rail lines into a single corridor paralleling the Wabash River. From that time to date, the railroad relocation process and its engineering, right-of-way and construction phases have been included in the MPO adopted Transportation Improvement Plan and are an integral part of the Long Range Transportation Plan for the Greater Lafayette area.

In a 1991 Transportation Plan update to the year 2010, the MPO adopted a new phased capital improvement program including the anticipated completion of the railroad relocation project. As a part of improved traffic flows and decreased congestion in the community, the removal of 42 at-grade rail crossings adds considerably to a safe, modern transportation network capable of handling the growth needs of Greater Lafayette. The community's 2015 Transportation network is predicated on the removal of the trackage and the creation of new linkages in the system. Removal of the CSX tracks has already increased road highway safety by the elimination of several hazardous grade crossings in the City.

The fifth and final stage of this long range project will eliminate 24 of those 42 rail crossings in the City of Lafayette and contribute substantially to the safety and mobility of the motoring public and pedestrians.

The FY '96 Transportation Improvement Program (TIP) was adopted by the MPO in early 1995, incorporating into its three to five year framework the final phases of this effort spanning two decades. In the winter of 1995, the State of Indiana adopted its statewide transportation improvement program, INSTIP, incorporating the Railroad Relocation Program as established in the local TIP. In the fiscally constrained TIP, it was anticipated that federal funding to complete the project could be expected and the local financial support was also available.

The Lafayette Railroad Relocation Project has enjoyed broad-based community support through its 19 year history, is supported by the long range transportation plan, and assists those long range planning goals of the community to be effectively realized. Enclosed for your information are copies of the FY '96 TIP document, and a brochure excerpting facts from the Year 2010 Transportation Plan.

I thank you for your past and continuing assistance to our community and would respectfully request your support to provide additional funding through Section 1108, of the Intermodal Surface Transportation Efficiency Act of 1991, in order to assure completion of the Lafayette Railroad Relocation Project.

If you have any questions concerning this information, please contact me.

Sincerely,

James D. Hawley,
Executive Director

JDH:mgb

Enclosure

cc: Liz Solberg

NORFOLK SOUTHERN

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
804 629-2610

David R. Goode
Chairman, President and
Chief Executive Officer

April 10, 1995

The Honorable James F. Richie
Mayor
City of Lafayette
10 South Second Street
Lafayette, Indiana 47901-1216

Dear Mayor Richie:

Since 1975 the City of Lafayette, Indiana, in partnership with Congress and private interests, has worked vigorously and continuously to relocate various rail lines away from the center of downtown Lafayette. As the time approaches to request an increase in authorization and an appropriation of funds from Congress to complete Phase 5, the final phase of the Relocation Project, I want to express once again Norfolk Southern's complete and enthusiastic endorsement of the Project.

Among other benefits, the project will eliminate 42 grade crossings in Lafayette, an enormous contribution to motorist safety. Because over half of the crossings will be closed in this last phase, reauthorization and appropriation of this funding is crucial to the realization of the full safety and economic potential of the Relocation Project.

The hard work of so many is close to fruition; all of us at Norfolk Southern strongly support Congressional action to fund the last phase of this Project.

We at Norfolk Southern have enjoyed a warm and cooperative relationship with you and the citizens of Lafayette in the past and look forward to our continued joint efforts.

Sincerely,

Lafayette Bank and Trust Company
P.O. Box 1130
Lafayette, Indiana 47902
Phone: 317 423 7100
Fax: 317 423 7280

Lafayette Bank & Trust

Joseph A. Bonner
Pres dent
Chie Executive Officer

April 14, 1995

Mayor James F. Riehle
City of Lafayette
10 South Second Street
Lafayette, IN 47901

Dear Jim:

Thank you again for your continuing efforts to bring the total Railroad Relocation Project to a successful termination. It just shows what great leadership and a supportive community can do.

Not only has there been community support for the project but we have had strong bipartisan support from the State and from the Federal Government as well.

Three segments have been completed and the fourth will be completed later this year. CSX Relocation was achieved last summer and work on the fifth and final segment has begun. Preliminary contracts for this segment are funded. We need to obtain federal funding for the final segment.

When the fifth segment is completed, the final 24 of 42 grade crossings will have been completed.

What this means for the future of our city is inestimable. But, it does show that a concerned community can work together to get a very important job accomplished.

Best wishes.

Very truly yours,

LAFAYETTE BANK AND TRUST COMPANY

Joseph A. Bonner
Chairman, President and CEO

jl

HANNA COMMUNITY COUNCIL
1201 N. 18TH • LAFAYETTE, IN 47904

April 12, 1995

Mayor James F. Riehle
City of Lafayette
10 South Second Street
Lafayette, IN 47901

Dear Mayor Riehle:

The Hanna Community Council Board of Directors, staff and neighborhood are committed to the completion of the Lafayette Railroad Relocation Project. We understand that you will be presenting testimony to Congress on the need for funding to complete the project.

The project is urgently needed. We support the request that Lafayette Railroad Relocation is making for enough funds to complete the final contract of the fifth and final phase of the project.

Completing construction of the final segment will be of real benefit. We have come this far since the start of the project in the early 1970's and it is important that the project be completed. It will be a great improvement for the city.

Sincerely,

Terri E. Boone
Executive Director

317-742-0191
Tax Exempt — Not for Profit Corporation
An Equal Opportunity Affirmative Action Agency
Partially Funded by
Community Development, Titles III, V, XX & Church Women United
United Way

RUSSELL H. HART
ROGER O. BRANIGIN, JR.
THOMAS L. RYAN
JAMES V. McGLONE
CARL W. KLOEPFER
THOMAS R. McCULLY
LARRY R. FISNER
NINA B. KIRKPATRICK
MARK I. LILLIANFELD
STEPHEN R. PENNELL
ANTHONY S. BENTON
ERIK O. SPYKMAN
WILLIAM E. EMERICK
JOHN C. DUFFEY
MARK E. DEYOUNG
THOMAS B. PARENT
LAURA L. BOWKER

STUART & BRANIGIN
LAWYERS
THE LIFE BUILDING
300 MAIN STREET, SUITE 800
POST OFFICE BOX 1010
LAFAYETTE, INDIANA 47902-1010

TELEPHONE (317) 423-1561
FACSIMILE (317) 742-8175

KEVIN D. NICOSON
SUSAN K. NOLTBERG
JOHN M. STUCKEY
DEBORAH B. TRICE
BRENT W. HUBER
DAVID A. STARKWEATHER
GEOFFREY L. BLAZI
A. JAMES CHAREO

OF COUNSEL
GEORGE A. RINKER
JOHN F. BOOLE

ALLISON E. STUART (1886-1950)
ROGER O. BRANIGIN (1902-1975)

April 12, 1995

The Honorable James F. Riehle
Mayor of the City of Lafayette
10 South Second Street
Lafayette, IN 47901

Dear Jim:

Once again, on behalf of myself and my firm, who speak both as owners of property in downtown Lafayette and as citizens of the greater Lafayette, I would like to express our continued support for the completion of railroad relocation in Lafayette.

Relocation of the CSX tracks has been completed, except for renovation of 5th Street. The relocation of the CSX tracks has already proved to be a great improvement to our City, in terms of safety and convenience. Renovation of 5th Street, to be completed later this year, will result in a great improvement to our City in terms of appearance. The relocation of the old Big Four depot, also to be completed later this year, will give us a first class passenger train station (assuming that Amtrak survives, and as a frequent rider and certified train nut, I hope it does survive) as well as a focal point for downtown gatherings.

However, we continue to think that it is imperative that the relocation be finished. All that is left, although its cost should not be minimized, is relocation of the Norfolk Southern tracks. These tracks, which bisect Lafayette and which handle increasing volumes of rail traffic, block vehicular traffic so frequently as to threaten emergency vehicle response times and to tempt impatient drivers to disregard semaphores (and even crossing gates). This final part of the relocation project is to our minds the most important part in terms of improving traffic safety and improving vehicular traffic flow.

We are told that the cost of relocating the Norfolk Southern tracks has been partially funded and that what is needed now is the federal share of the cost which has not yet been funded and

which is the subject of the City's current request. We would strongly urge the Congress and the Department of Transportation to act favorably on the City's request and to do so before inflationary pressures increase the cost of completion.

In urging approval of the necessary additional funding, we do not mean to sound ungrateful for the progress which has been accomplished so far. My firm and I -- indeed, almost everyone I know in this community -- are indebted to Congressman Myers, Senators Lugar and Coats, and all the other members of the Congress, to the Federal and State Departments of Transportation, and to the hard-working railroad relocation staff, and last but not least, to you. All have assisted out community in planning and implementing railroad relocation, and all deserve our gratitude.

If you should see fit to submit copies of this letter to legislators or administrative officials, I would emphasize two simple points: We thank all of them for helping us get this far, and we sincerely urge them to help our community finish the job.

Very truly yours,

Roger D. Branigin, Jr.

RDB/sm

31398

JOSEPH T. BUMBLEBURG
POST OFFICE BOX 1535
LAFAYETTE, INDIANA 47902
317-742-9046

April 7, 1995

Mayor James F. Riehle
City of Lafayette
10 South Second Street
Lafayette, IN 47901

Dear Mayor:

I write again to express my support for railroad relocation. This is a most interesting project that enjoys wide spread community support. As you know, I watch the progress from my office. The new bridges, the Wabash Avenue overpass, the depot movement and the Harrison bridge project are impressive.

The end result eliminating 42 grade crossings and improving the area transportation net has benefits that are valuable to this community and to others. Additionally what the city has learned about how citizens come together for the common good can be shared with many other communities.

This relocation continues to be a win-win situation with long term benefits for all.

Very truly yours,

Joseph T. Bumbleburg

JTB/rlm

TIPPECANOE BUILDING AND CONSTRUCTION TRADES COUNCIL
affiliated with
Building Trades Department, A.F.L.-C.I.O.
P.O. Box 85, Lafayette, IN 47902-0085 · (317) 742-2427 · FAX (317) 742-5792

Robert R. "Jack" Kelley
President

Norman Childress
Secretary/Treasurer

April 24, 1995

The Honorable James F. Riehle
Mayor of Lafayette, Indiana
20 North 6th Street
Lafayette, Indiana

Re: Federal Funding to finish Lafayette
Railroad Relocation Project
Lafayette, Indiana

Dear Mayor Riehle,

I understand that you and other community leaders are going to Washington D.C. to seek additional funding to finish the fifth and final segment (Norfolk Southern rail relocation) of the Lafayette Railroad Relocation Project.

The Tippecanoe Building & Construction Trades Council is strongly committed to completing this project. We thank you for your leadership and we wish to go on record as we have over the past 24 years in support of this project. We support you and encourage you in your request to the U.S. Congress for additional funds to finish this urgently needed project.

Upon your arrival in Washington to testify, please express our thanks for the past federal funding. As you know, four of the five project segments are done, or almost done, and the fifth is under way. Through the money that the Lafayette community has received for this project many area residents have received the opportunity for gainful employment on various construction projects. With segment number 5 underway more jobs have been created.

Once again, thank you for your support of this project, if we can be of any help feel free to call on us.

Very truly yours,

Norman Childress
Secretary/Treasurer

Northwest Indiana District Council Of Carpenters

658 Main Street, Suite 215 • Lafayette, IN 47901 • 317-742-2762

April 24, 1995

The Honorable James F. Riehle
Mayor of Lafayette, Indiana
20 North 6th Street
Lafayette, Indiana

Re: Federal Funding to finish Lafayette
Railroad Relocation Project
Lafayette, Indiana

Dear Mayor Riehle,

I understand that you and other community leaders are going to Washington D.C. in the near future to seek additional funding to finish the fifth and final segment of the Lafayette Railroad Relocation Project. (Norfolk Southern track relocation)

The Northwest Indiana District Council of Carpenters is strongly committed to completing this project. We thank you for your leadership and we wish to go on record as we have over the past 24 years in support of this project. We support you and encourage you in your request to the U.S. Congress for additional funds to finish this urgently needed project.

Upon your arrival in Washington would you please express our thanks for the past federal funding. As you know, with four of the five project segments done, or almost done, and the fifth under way, the additional funding to complete this project is extremely critical. The funding that the Lafayette community has received for this project up to date has provided many area residents with the opportunity for gainful employment, not to mention the elimination of 18 dangerous grade crossings. With segment number 5 underway more jobs have been created and we look forward to the elimination of 24 more grade crossings bringing the project total to 42.

Once again, thank you for your support of this project, if we can be of any help feel free to call on us.

Very truly yours,

Sam Copeland

Sam Copeland
Business Representative

May 17, 1995

Honorable James F. Riehle
Mayor of the City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Mayor Riehle:

It is my understanding that you will be submitting congressional testimony on behalf of the community and requesting funding to finish the Lafayette Railroad Relocation Project.

You have the continued support of St. Elizabeth Hospital Medical Center in your request for additional funding to complete this important project. It is vital to the continued growth, and more importantly, to the safety of the residents of the Lafayette community, that funding be made available for completion of the fifth and final segment of the Railroad Relocation Project.

It will be of great benefit to the citizens of our community when our emergency vehicles no longer encounter delays caused by the railroad crossings. The number of railroad crossing accidents and tragedies should be greatly diminished.

Mr. Mayor, I firmly support the community's request for the federal funding to complete the final contract of this crucial project. May God's richest blessings be with you as you work toward this goal.

Sincerely,

Douglas W. Eberle
President

pcs

St. Elizabeth Hospital Medical Center
1501 Hartford St. • P.O. Box 7501, Lafayette, IN 47903 • (317) 423-6011

CATERPILLAR®

General Manager
Large Engines

Caterpillar Inc.

Lafayette, Indiana 47905

May 18, 1995

Mayor James F. Riehle
City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Jim:

The Lafayette Railroad Relocation Project is a much needed improvement to the infrastructure of this ever-expanding community. We can no longer tolerate the antiquated roads, bridges and rail systems that are currently in place. The community and Caterpillar Inc. are strongly committed to completing this project.

With four of five segments finished or nearly so, and with construction underway on the initial contract and funding already in place for the other preliminary contracts of the fifth and final segment, we need to convince Congress to fund the large final contract which will complete Railroad Relocation.

The purpose of this letter is to support your efforts and those of other community leaders when you visit Washington and testify about the need for additional funding to finish the project. At the same time, a very heartfelt thank you is expressed by myself and others for their past support.

We have gone this far. Let's not stop now! Thank you for your continued support on this endeavor.

Sincerely,

M. A. Flexsenhar

MAF/cjr

NBD Bank, N.A.
437 South Street
Post Office Box 780
Lafayette, Indiana 47902

May 22, 1995

Mayor James F. Riehle
City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Jim:

Railroad Relocation has been a top community priority for over two decades and has been solidly supported by the community for a number of years. Your personal efforts have been outstanding and it is extremely important that funds be provided to finish the final phase.

This project will be a most positive change in our communities of Lafayette and West Lafayette with the biggest benefits coming in the final segment.

It is extremely important that federal funding be made available to finish the fifth and final segment of Lafayette Railroad Relocation.

Thanks again for all you have done for Lafayette Railroad Relocation. Please let me know if I can be of further assistance.

Sincerely,

David L. Francis
President

DLF:pk

PSIEnergy™ District Office

601 North 3rd Street
Lafayette, Indiana 47901

P. O. Box 120
Lafayette, Indiana 47902

May 4, 1995

Mayor James F. Riehle
City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Mayor Riehle:

Please add my name to the many others that support the City's request for funds to complete the fifth and final segment of the Lafayette Railroad Relocation project.

I continue to feel it's extremely crucial that sufficient funding be approved to accommodate the long expected improvements in our regional transportation network. These enhancements will not only offer a greater degree of safety for our community in eliminating 42 crossings, but will also provide substantial community redevelopment opportunities.

Since this has been a top bi-partisan community priority for the past two decades, it would certainly be a big disappointment and detriment to the Greater Lafayette community not to see its fruition.

Sincerely,

W. L. Hancock
Northwest Region Manager

bg
cc: Elizabeth Solberg, Project Manager
Railroad Relocation

Downtown Business Center

April 20, 1995

Mayor James F. Riehle
City of Lafayette
10 South 2nd Street
Lafayette, IN 47901

Dear Mayor Riehle:

We are writing this letter on behalf of the board of directors of the Downtown Business Center to support the City's request for federal funds to complete the fifth and final segment of the Lafayette Railroad Relocation Project.

As you know, the Downtown Business Center is a not-for-profit organization concerned with the on-going development and preservation of downtown Lafayette. We view the railroad relocation project as having a momentous effect on the future development of the center city and the entire community. Elimination of the grade crossings will ensure public safety as well as greatly improve the quality of life in our community. Completion of this significant project will help foster the continued growth and revitalization of our downtown.

We are encouraged that three segments are complete, the fourth is scheduled for completion this year and work has begun on the fifth and final segment. However, the most significant benefits will occur with the as yet unfunded last contract because of the large number of grade crossings that will be removed.

We encourage members of the appropriate congressional committees to support the City's request for additional authorization and the appropriation of funds to complete the Lafayette Railroad Relocation Project.

Sincerely,

Jim Hodson, President

Susan K. Smith, Executive Director

JH:SKS/jn

It's Happening Downtown

P.O. Box 1005 • Lafayette, Indiana 47902 • (317) 742-2313

GORDON J. KINGMA
5621 ROSEBERRY RIDGE
LAFAYETTE, INDIANA 47905

May 10, 1995

Honorable James F. Riehle, Mayor
City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Jim,

We are so close to realizing the completion of the community-wide Railroad Relocation Project that it would be nearly criminal if this excellent improvement were not completed as planned. We have all worked too hard, too long, to let that happen.

Now that we are so close to actually moving the Norfolk Southern tracks that literally cut our city in two, I strongly encourage you to continue your quest for complete and final appropriation of funds to finish the fifth and final segment of the project.

Past support of Congress has been exceptional. As you meet with current Congressional committees, please continue to inform them the community citizenry offers its endorsement.

We must bring this program to a positive conclusion. Now that we are so very close to the elimination of all 42 grade crossings, we are more than eager to see our plans completed. This project will not only alleviate serious local traffic flow problems, but will serve as a model for areas throughout the country. Godspeed!

Sincerely,

Gordon J. Kingma

Lilly

Eli Lilly and Company

Tippecanoe Laboratories
P.O. Box 685
Lafayette, Indiana 47902
(317) 477-4300

May 22, 1995

Mayor James F. Riehle
City of Lafayette
City Hall, 20 North 6th Street
Lafayette, Indiana 47901

Dear Mayor Riehle:

Jim, Liz Solberg informed me that you will be submitting testimony regarding additional funding to complete the Lafayette Railroad Relocation project. As a major employer in the community of over 1300 employees, I feel railroad relocation dramatically enhances travel time to and from work and is vital to the continued growth of the greater Lafayette area. It is my desire to go on record that I, as well as the community, am committed to completing the project.

It is my understanding that four of the five segments are either finished or under way and that segment five has been started. You have my strong support in the requesting enough funds to finish the project, because the biggest benefit comes with construction of the final segment (Segment #5 - N&W Relocation).

I personally commend you, Jim, in your 'VISION' in the 1970's of railroad relocation and the productive use of federal funding in the achievement of this vision. Good luck in your upcoming visits to Washington to obtain additional funding.

Sincerely,

Jim Kleck

Jim Kleck
General Manager

JK:cjk

Great Lakes
Chemical Corporation

P. O. BOX 2200 · ONE GREAT LAKES BOULEVARD · WEST LAFAYETTE, INDIANA 47906 · TELEPHONE 317-497-6100 · FAX 317-497-6180

ROBERT B McDONALD
President and
Chief Executive Officer

May 18, 1995

Mayor James F. Riehle
City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Jim:

Going across town the other day, I was delighted to see the progress which is being made on our railroad relocation project. Things seem to be moving along very well and I know the community is anxiously awaiting completion of this much-needed improvement.

We, at Great Lakes, have always felt this project was probably one of the most highly desirable initiatives for this area, primarily from a commercial standpoint. Our community is growing very rapidly and if we are to continue to attract the larger, viable manufacturers and businesses, we certainly need to ensure that our Railroad Relocation Project secures the necessary funding to reach completion as soon as possible. This is important to our community and it has taken us almost 25 years to get to where we are today.

From what I understand, current funding has provided for four of the five segments of this ambitious plan and has enabled you to start the fifth, but that you are presently requesting that funds be provided to complete segment 5.

Jim, Great Lakes, a worldwide leader in manufacturing, strongly stands behind you on this and if there is anything we can do to support your application for additional federal funding through the New Surface Transportation Bill, we will be glad to be of assistance.

The community is committed to completing the project and we cannot let this slip by us now. We need this funding, and I hope you can be persuasive in convincing the various members of Congress to authorize these needed appropriations in the future.

Kind regards and good luck.

Sincerely,

Robert B McDonald

Robert B. McDonald

RBM:mkd

kirby risk supply co.
1815 Sagamore Parkway N., P.O. Box 5089, Lafayette, IN 47903 (317) 448-4567

James K. Risk, III
President

April 12, 1995

Mayor James F. Riehle
City of Lafayette
10 South Second Street
Lafayette, Indiana 47901

Dear Jim:

Having been actively involved in Railroad Relocation since the early 1970's, I would like to once again express my compliments to you and all of those concerned for the continued progress of this important project.

I am continually impressed by our community's incredibly strong commitment to the project and encouraged by the broad support from all segments of the Greater Lafayette area.

It is my understanding that you and other community leaders will be going to Washington to seek the necessary funding to finish the project and that you will be submitting testimony to Congress. I wanted to officially offer my support and encouragement and ask you to express my appreciation to the appropriate members of Congress.

Lafayette has every reason to be proud of the efficient use of the federal funds that have been made available for this relocation project.

As we mark the completion at four segments, it is critical that we receive the necessary funding to allow us to finish the project....especially after coming this far since the early 1970's and the biggest benefit to the public comes with completion of the final segment.

Once again, my compliments and appreciation to you and all of those involved in the Lafayette Railroad Relocation Project.

Sincerely,

Jim

JKR III;jl

WABASH RIVER PARKWAY COMMISSION

Lafayette *West Lafayette* *Tippecanoe County*

May 8, 1995

The Honorable James F. Riehle
Mayor, City of Lafayette
10 South Second Street
Lafayette, IN 47901

Dear Mayor Riehle:

The Wabash River Parkway Commission was established by interlocal agreement to survey community needs, coordinate with local governments, and achieve community consensus on local recreational and developmental goals for the Wabash River and adjacent lands. Commission members include: president of the Tippecanoe County Commissioners; president of the County Council; mayors of both Lafayette and West Lafayette; president of Lafayette Board of Parks and Recreation; president of Tippecanoe County Board of Parks and Recreation; president of West Lafayette Board of Parks and Recreation; and, representatives of Purdue University, Greater Lafayette Chamber of Commerce, Greater Lafayette Convention and Visitor's Bureau, Tippecanoe County Farm Bureau, Tippecanoe Arts Federation, Tippecanoe Historical Association, Tippecanoe County Area Plan Commission, the local chapter of the Audubon Society, and the League of Women Voters.

The Commission has reviewed the progress of Lafayette Railroad Relocation and has worked directly with the project manager, Elizabeth Solberg, and her staff to establish common community goals and coordinated planning efforts. The United States Corps of Engineers has prepared final plans for a recreation walking/bicycle trail which will be constructed in conjunction with the final phase of Railroad Relocation. The Indiana Department of Natural Resources has already funded this portion of the parkway. The National Park Service is actively studying the entire length of the Wabash Corridor to propose additional projects and funding for its development, instigated by the work of the Wabash River Parkway Commission in Tippecanoe County.

Recognizing the value of these efforts, the Indiana State Legislature established a state-wide Wabash River Heritage Corridor Commission to recognize, prioritize, preserve, and develop the entire river corridor. A critical element in the river master plan is the portion in Tippecanoe County which cannot be completed until the final phase of Railroad Relocation is constructed.

As president of the Wabash River Parkway Commission, I strongly urge you to request the funding to complete the final segment. We are very appreciative of the federal funding which has provided the planning and construction to date. Without these funds, we would not have been encouraged to dream and plan as we have. The entire Greater Lafayette community has responded positively as evidenced by a growing number of individuals and organizations willing to be involved in our community planning. As a result, our Wabash River project is only one of many community issues which will not be able to proceed until the final Lafayette Railroad Relocation phase is complete.

Thank you for all of your efforts on behalf of the Wabash River Parkway.

Yours very truly,

Thomas R. Schmenk, President
Wabash River Parkway
Commission

dm

Bank One, Lafayette, NA
Post Office Box 380
Lafayette Indiana 47902

Tel 317 423 0300

BANK ONE

May 17, 1995

Mayor James F. Riehle
City of Lafayette
20 North Sixth Street
Lafayette, IN 47901

Dear Mayor Riehle:

Bank One, Lafayette continues their support of the City of Lafayette in completing the Lafayette Railroad Relocation Project. With four of five segments completed or under construction and the strong support at local, state and federal levels, we must continue our quest for completion of the Project. Completion of the final segment will bring the total number of crossings eliminated to 42. This will be of great importance to our community. We urge you to request the federal funding necessary to complete this Project.

Sincerely,

Joseph H. Seaman
President and CEO

SHOOK Better Homes and Gardens
427 Main Street, Lafayette, IN 47901 (317) 742-1400 FAX (317) 742-7505

April 14, 1995

Mayor James Riehle
City Hall
20 N. Sixth Street
Lafayette, Indiana 47901

Dear Mayor Riehle:

I would like to support your efforts to secure the necessary funding for the final phase of the railroad relocation in Lafayette. With the help of our representatives in the House of Representatives and the United States Senate, the first phases are nearing completion. Although much progress has been made, the final phase, the relocation of the Norfolk & Southern Railroad, is the most crucial to the entire project. Without the Norfolk & Southern relocation, the program is only 25% effective. The winners in the overall scope of the project are not only the City of Lafayette, but the entire County of Tippecanoe.

Good luck on the balance of the venture.

Sincerely yours,

Wesley Shook

C. Wesley Shook

REALTOR® MLS

SHOOK COMMERCIAL/ INDUSTRIAL REAL ESTATE
THE SHOOK AGENCY, INC. 427 Main Street
Lafayette, Indiana 47901
(317) 742-1400
FAX (317) 742-7505

April 11, 1995

Mayor James Riehle
City of Lafayette
10 S. Second Street
Lafayette, IN 47901

Dear Mayor Riehle:

More now than ever I support your efforts in the rail relocation program. The progress to date is dramatic but the real benefits will only be realized upon completion of the final phase, and in the prevalent climate of fiscal conservatism we must renew our dedication toward putting "the last span" of the work in place.

What has been accomplished is due in large part to almost unanimous support in Greater Lafayette and the unstinting bipartisan assistance of our senators and congressman through the years. The importance of the project becomes more apparent each year and we can only hope this is clear to all that view the work with an eye toward continued funding. Completion is so vital to our community.

With every good wish for your success, I am,

Sincerely,

James C. Shook

JCS/lmc

THE CHAMBER
GREATER LAFAYETTE
CHAMBER OF COMMERCE

April 14, 1995

Mayor James F.Riehle
City of Lafayette
City Hall
20 North 6th Street
Lafayette, Indiana 47901

Dear Mayor Riehle,

The Greater Lafayette Chamber of Commerce would again like to express our continued support of your efforts on behalf of the Lafayette Railroad Relocation Project. As you know this project has been a community priority for at least the past two decades and has always had by-partisan backing at the local, state and federal levels.

As I understand the current status of the project, we are seventy seven percent funded. However, the real benefit to the community comes in the final phase for which you are requesting funding now. From a public safety perspective, twenty four of the forty two grade crossings to be eliminated will be removed in this final phase of construction. They are also the most dangerous crossings.

For the past fourteen years the Chamber has sponsored a trip to Washington, D.C. through our Federal Government Committee. We have always taken a position paper supporting Railroad Relocation and given them to our Members of Congress. We clearly continue that support.

If we can be of further help, please contact me.

Sincerely,

E. Dana Smith
President

P.O. Box 348
Lafayette, Indiana 47902-0348
Phone: 317-742-4041 • Fax: 317-742-6276

Lafayette Neighborhood Housing Services, Inc.
P.O. Box 252
Lafayette, IN 47902
317/ 423-1284
FAX: 317/742-9044

April 12, 1995

Mayor James F. Riehle
City Hall
20 S. 6th S Street
Lafayette, Indiana 47901

Dear Mayor Riehle:

This letter is being written on behalf of Lafayette Neighborhood Housing Services, Inc. to indicate our strong support for the completion of the Railroad Relocation Project. It is our understanding that the community is now seeking additional federal funding for the project.

As a not-for-profit organization dedicated to the stabilization of older neighborhoods in Lafayette (many of which are impacted by Railroad Relocation), we have been especially interested in the project. We sincerely appreciate the awareness of the need to preserve existing housing as well as the character of the neighborhoods which was shown in the plans.

In addition, relocation of the railroads which now pass through low-income neighborhoods will eliminate a serious safety hazard and increase the likelihood of renovation of the existing homes in those areas. For these reasons, we feel that the final segment is, of course, the most crucial and are quite anxious to see the project completed.

Please convey to Washington our gratitude for the past federal funds and express our urgent desire to see the final segment of the plan implemented.

Do not hesitate to contact our office if we can provide any additional support for the project.

Sincerely,

Patricia E. Stephenson

Patricia E. Stephenson
Executive Director

ADVISORY BOARD:

Joseph A. Bonnee
President & CEO
Lafayette Bank & Trust Company

David L. Francis
President & CEO
NBD, N.A.

Brad R. Meyer
Retired
Eli-Lilly & Company

Honorable James F. Riehle
Mayor
City of Lafayette

Joseph H. Seaman
President & CEO
Bank One, Lafayette, N.A.

Erik D. Spykman
Partner
Stuart & Branigin

Robert M. Whitsel
President
Lafayette Life Insurance Company

GREATER Lafayette INDIANA
CONVENTION & VISITORS BUREAU

May 9, 1995

The Honorable James F. Riehle
Mayor, City of Lafayette
Big Four Depot
20 North Sixth Street
Lafayette, IN 47901

Dear Jim:

The Greater Lafayette Convention and Visitors Bureau Board of Directors continues to support Railroad Relocation, it is a top community priority and has been for over two decades. With the fourth and the fifth segment nearly complete and the final segment under construction, the biggest benefits will come in the final contract. In the Norfolk Southern Relocation, 24 grade crossings will be removed making it much easier and safer for visitor traffic and motorcoach drivers to get around our community. Greater Lafayette has over a million visitors to the community each year, most driving their own vehicles. Railroad Relocation with the final segment completed will have eliminated 42 railroad crossings, making the roads safer for all who drive on them.

The historical preservation of the Big Four Depot along with the safer and better access to our downtown are important issues to tourism in Greater Lafayette. The recreational aspect, along with the inter modal linkage, makes it even more exciting.

Best of luck and continued success with this project.

Sincerely,

Joann L. Wade
Executive Director

301 FRONTAGE ROAD
◆
P.O. BOX 5547
◆
LAFAYETTE, INDIANA
◆
47903
◆
317/447-9999
◆
FAX 317/447-5062
◆
800/872-6648

ROBERT M. WHITSEL
Chairman and
Chief Executive Officer

April 7, 1995

Mayor James F. Riehle
City of Lafayette
10 South Second Street
Lafayette, IN 47902

Dear Jim:

I want to again offer my wholehearted support for the Lafayette Railroad Relocation Project. I know of no other significant project that has garnered the endorsement of the entire community, even including property owners whose residence or business has been taken in order for Railroad Relocation to proceed.

This community support is the result of an observed need to be served by the project, namely, to remove railroad traffic from the middle of the downtown business district as well as the many grade crossings throughout the city. Completion of Railroad Relocation is vitally needed.

Much progress has been made since this project was undertaken many years ago. We are now approaching the final contract which will relocate two Norfolk and Western mainlines from the downtown area into a new rail corridor and eliminate twenty-five grade crossings. To not receive funding for this purpose would greatly dilute the value of the investment made thus far, as well as remove the primary community benefit the project was designed to achieve.

I know that you and other community leaders are going to Washington, D. C. to seek additional funding to complete the project. I certainly support your request for enough funds to finalize Lafayette Railroad Relocation.

Best wishes in your continued endeavors.

Very truly,

R. M. Whitsel

RMW/maz

1905 Teal Road
P O. Box 7007
Lafayette, Indiana
47903
317. 477. 7411
A mutual company

92-534 (296)

BOSTON PUBLIC LIBRARY
3 9999 05903 563 2

ISBN 0-16-052436-9
90000
9 780160 524363

#073